REDACTED – FOR PUBLIC INSPECTION

Before the
Federal Communications Commission
Washington, D.C.

In the Matter of GAME SHOW NETWORK, LLC, Complainant, v. CABLEVISION SYSTEMS CORP., Defendant	)))))))))	MB Docket No. 12-122 File No. CSR-8529-P

TO: Chief Administrative Law Judge Richard L. Sippel

CABLEVISION SYSTEMS CORPORATION'S
MOTION FOR SUMMARY DECISION

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Defendant Cablevision Systems Corporation ("Cablevision") respectfully submits this motion, pursuant to 47 C.F.R. § 1.251, for a summary decision dismissing the program carriage complaint brought by complainant Game Show Network, LLC ("GSN").[1]

PRELIMINARY STATEMENT

In every carriage proceeding under Section 616, the complainant network must satisfy a high standard: the alleged discrimination must "unreasonably restrain" the unaffiliated network's ability "to compete fairly."[2] It is not enough for a complainant simply to identify some measure of economic harm to its business; every adverse carriage decision results, by definition, in reduced revenues to the network that alleges that it has been subject to discrimination. Instead, Section 616 requires evidence that an MVPD discriminated on the basis of affiliation, *and* that the MVPD's discriminatory conduct unreasonably restrained the network's ability to compete fairly.[3] As a result, to prove a violation of Section 616, a complaining network must show an "impact of the charged adverse action 'on the programming vendor's subscribership, license fee revenues, advertising revenues, ability to compete for advertisers and programming, and ability to realize economies of scale.'"[4] Only when that

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1 As used herein, "GSN" refers to both Game Show Network, LLC and/or the programming network owned by that entity, GSN. Evidence in support of Cablevision's motion is in the accompanying Declaration of George W. Kroup ("Kroup Decl."). Exhibits to the Kroup Decl. are referred to as "Ex. __."

2 47 C.F.R. § 76.1301(c).

3 *Comcast Cable Comm'ns, LLC* v. *FCC*, 717 F.3d 982, 989 (D.C. Cir. 2013) (the "*Tennis Channel*" action) (Kavanaugh, J., concurring). The 2013 trial in this case was stayed pending the D.C. Circuit's decision in that action.

4 *Time Warner Cable Inc.* v. *FCC*, 729 F.3d 137, 149 (2d Cir. 2013); *Game Show Network, LLC* v. *Cablevision Systems Corp.*, Hr'g Designation Order & Notice of Opportunity for Hearing for Forfeiture, 27 FCC Rcd. 5113 (MB 2012) (hereinafter "HDO") ¶ 10 n.57.

impact shows that the carriage decision had an "anticompetitive effect" can restrictions be placed on an MVPD's carriage decision.[5]

GSN can make no such showing. Unlike every other network that has brought a proceeding under Section 616, GSN is a mature, fully-penetrated and widely-carried network with [redacted] million subscribers. More than four years after Cablevision's purportedly discriminatory decision to place GSN on its Sports and Entertainment Tier, which resulted in the loss of [redacted] million subscribers, the undisputed record demonstrates that under every metric identified by the Commission, GSN [redacted] Subscribership has [redacted] Distribution has [redacted] License fees and advertising revenues [redacted] The network has [redacted] All of these facts are indisputable and confirmed by GSN's own documents, the testimony of GSN witnesses, and public statements made by GSN's top executives. As GSN recently touted during its upfront presentation to national advertisers and media buyers, [redacted][6]

In opposition, GSN will undoubtedly assert that it would have done even better if it had not been retiered by Cablevision. Even if true, that is irrelevant for the purposes of this motion. GSN will also assert that Cablevision has market power in the New York DMA. But the relevant inquiry under Section 616 for a national network like GSN is whether it has been unreasonably restrained from competing fairly in the national marketplace in which it operates.

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5 *Time Warner Cable Inc.*, 729 F.3d at 164.

6 [redacted].

And even focusing on the New York DMA, the undisputed fact is that Cablevision faces intense competition from DIRECTV, DISH Network, and Verizon, which today have more than 2.2 million subscribers in Cablevision's footprint alone and offer GSN [redacted] These alternatives, coupled with the fact that GSN is available to any Cablevision subscriber who wishes to subscribe to the tier that includes GSN, means that GSN cannot show it cannot compete fairly. Viewers in the New York DMA who want GSN have access to it. GSN's contrary arguments simply are insufficient to force this case to trial.

To be clear, GSN's inability to prove that it has been unreasonably restrained is not the only flaw in GSN's case. Cablevision is confident that, if this case goes to trial, the Presiding Judge will hold that GSN, "the network for games," is not similarly situated to [redacted] under any of the relevant metrics the Commission has identified. And, despite two rounds of discovery and the opportunity to depose everyone involved in the carriage decision at issue, GSN will be unable to prove that Cablevision made its carriage decision with any discriminatory intent. But the Presiding Judge should enter a summary decision dismissing GSN's carriage complaint now on unreasonable restraint grounds, rather than using the Commission's limited resources to conduct a trial that cannot, as a matter of law, result in a finding that Cablevision has violated Section 616.

STATEMENT OF UNDISPUTED FACTS

Cablevision is a cable operator. Although today it is the ninth largest MVPD in the country with approximately [redacted] million subscribers, it is only a fraction of the size of its larger competitors. By way of contrast, Comcast, the largest MVPD, has more than [redacted] million subscribers. DIRECTV, the second largest MVPD, has more than [redacted] million subscribers.[7]

GSN is a national cable network.[8] Cablevision and GSN executed their first carriage agreement in [redacted][9] That agreement provided for [redacted][10] [redacted][11] [redacted][12]

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[7] [redacted] As of February 2011, Cablevision had approximately [redacted] million subscribers [redacted] million of which were in the New York DMA. *See id.*; GSN Compl. ¶ 2.

[8] *See* HDO ¶ 6.

[9] [redacted]

[10] [redacted]

[11] GSN Compl. ¶ 22.

[12] *Id.*

On December 3, 2010, Cablevision informed GSN that it would be repositioning GSN to its Sports & Entertainment tier in New York, New Jersey, and Connecticut.[13] The retiering took effect on February 1, 2011.[14] At the time of Cablevision's retiering decision, GSN had [redacted] million subscribers nationwide.[15] GSN lost approximately [redacted] million Cablevision subscribers—or just over [redacted] of GSN subscribers nationally—as an immediate result of the retiering.[16] As of February 2011, approximately [redacted] Cablevision customers received GSN by subscribing to Cablevision's Sports & Entertainment tier; by June 2014, that number had grown to over [redacted].[17] Today, any Cablevision subscriber who elects to subscribe to the Sports & Entertainment tier of service receives GSN.

Although GSN has fewer Cablevision subscribers today than it did before the retiering, GSN's subscriber base has [redacted] on a national basis since that time. According to GSN CEO David Goldhill, the network has [redacted][18] SNL Kagan, a third-party data provider that is widely used in the television industry and relied on by GSN's experts, estimates that the number of GSN subscribers [redacted] million by the end of 2014.[19] [redacted]

13 HDO ¶ 7.

14 *Id.*

15 [redacted]

16 HDO ¶ 7.

17 [redacted]

18 [redacted]

19 [redacted]

[redacted][20] In fact, [redacted], Mr. Goldhill announced that GSN would have [redacted][21]

The [redacted] subscribership corresponds to GSN's [redacted] its distribution. [redacted]

- [redacted]
- [redacted]
- [redacted]
- [redacted]
- [redacted]
- [redacted]
- [redacted]

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20 [redacted]

21 [redacted]

22 [redacted]

Together these MVPDs provide cable service to [redacted][23] [redacted][24] In short, according to GSN's CEO, [redacted][25] As a result, GSN's revenue from affiliates has [redacted][26]

GSN has more than [redacted] million subscribers and [redacted] in the New York DMA in which Cablevision's customers are located.[27] This includes, as of 2013, [redacted][28] Cablevision competes with one or more MVPDs throughout its footprint in the New York DMA.[29] Verizon, in particular, has expanded in the

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23 [redacted]

24 [redacted]

25 [redacted]

26 [redacted]

27 [redacted]

28 [redacted]

29 *See* Ex. 25 (Cablevision 2014 10-K) at 7–8 (discussing the "intensely competitive environment" in the New York DMA).

New York DMA and now covers approximately 50% of Cablevision's footprint.[30] While Cablevision's customer base in the New York DMA has declined from [redacted] between the retiering and today, the number of Verizon subscribers in the New York DMA has increased dramatically from approximately [redacted] in 2010 to [redacted] in 2013.[31] Every Cablevision customer has the ability to view GSN, either by subscribing to Cablevision's Sports and Entertainment tier or switching to a competitor which carries GSN on a broader tier of service. Not surprisingly, given GSN's [redacted] penetration with Cablevision's competitors over the last five years, [redacted][32]

GSN's advertising revenues have [redacted] since Cablevision's retiering of the service. Although GSN has alleged that the retiering could harm ad sales because some ad buyers who are Cablevision subscribers may no longer receive GSN, SNL Kagan estimates that GSN's ad revenues [redacted][33] According to John Zaccario, GSN's Executive Vice President of Advertising, GSN now enjoys "much greater interest from the advertising community," and in 2012 signed over

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30 *See id.*

31 [redacted]

32 *See* [redacted]

33 "CPM" is an industry metric that measures the cost of having 1,000 viewers see one advertisement. [redacted]

100 new advertisers.[34] In 2013, GSN added an additional 70 new advertisers.[35] Moreover, GSN's overall revenues [redacted], and Mr. Goldhill projects that GSN will have [redacted][36]

Finally, GSN has successfully developed and acquired new programming that has [redacted] its ratings performance. During this period, GSN's "performance has been quite steadily strong"—[redacted][37] GSN has made original programming [redacted] since 2010, launching new competition shows as part of its effort to [redacted][38] Since 2010, GSN's programming expenses have [redacted], and internal GSN documents project [redacted][39] GSN's CEO has stated that the network has [redacted][40]

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34 *See* Ex. 28 at 2; *see also* Ex. 29 at 1 (noting that GSN "added 106 new advertisers last year").

35 Ex. 30 at 1 (discussing public statement from John Zaccario that GSN added "roughly 70" new advertisers in 2013).

36 [redacted]

37 [redacted]

38 [redacted]

39 [redacted]

40 [redacted]; *see also* GSN press releases at Ex. 33 (Apr. 9, 2013) ("The GSN brand is more powerful than ever and as a result, we are gaining momentum in all metrics . . . [W]e continue to break ratings records, deliver engaged audiences and in turn, provide unique opportunities for advertiser . . . In the past year, GSN has experienced enormous growth, with double digit increases year to year in both ratings and ad revenue."); Ex. 34 (Jan. 10, 2014) ("GSN announced that it set a record with 2013 being the most watched year in the network's history—with double-digit audience growth across all key demos and total viewers."); Ex. 35

PROCEDURAL POSTURE AND ISSUES TO BE DETERMINED

On May 9, 2012, the Media Bureau issued the HDO referring GSN's program carriage complaint against Cablevision for hearing before the Presiding Judge.[41] The Media Bureau specifically designated GSN's complaint for hearing:

> [t]o determine whether Cablevision has engaged in conduct the effect of which is to unreasonably restrain the ability of GSN to compete fairly by discriminating in video programming distribution on the basis of the complainant's affiliation or non-affiliation in the selection, terms, or conditions for carriage of video programming provided by GSN, in violation of Section 616(a)(3) of the Act and/or Section 76.1301(c) of the Commission's Rules . . .

and, if so, to determine appropriate relief.[42]

By March 2013, the parties had engaged in significant pre-hearing discovery, producing well over five hundred thousand pages of documents and taking nineteen fact and expert depositions. Pre-trial filings, including written direct testimony, proposed exhibits and trial briefs, were filed by the parties.

On June 7, 2013, GSN and Cablevision jointly moved for a continuance of the hearing in this matter to allow the parties to consider the potential impact of the D.C. Circuit's decision in *Tennis Channel*. In response to that request, the Presiding Judge issued an Order, FCC 13M-12, adjourning the hearing scheduled for July 16, 2013 and ordering the parties to submit monthly joint status reports. On April 17, 2014, after appeals of the D.C. Circuit's

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(Nov. 18, 2014) ("Coming off a record-breaking 2014, GSN continues to delve into new genres of game programming[,] . . . expanding its competitive entertainment roster for 2015."); Ex. 36 (Jan. 14, 2015) ("GSN, the leader in game shows and competitive entertainment, announced today that 2014 was the network's most-watched year ever . . . . This is also the third consecutive year of growth for the 20-year old cable network, bucking the current downward trend in viewership being felt by other well-established cable channels.").

41 HDO ¶¶ 39–49.

42 HDO ¶ 39.

opinion were exhausted, the Presiding Judge issued an order allowing limited supplemental discovery requested by GSN. The parties served document requests and interrogatories, exchanged supplemental expert reports, and conducted additional fact and expert depositions. On March 20, 2015, the parties completed supplemental discovery. Trial is scheduled to commence on July 7, 2015.

ARGUMENT

Summary decision is warranted where "there is no genuine issue of material fact for determination at the hearing" as to a required element of GSN's Section 616 claim. 47 C.F.R. § 1.251(a)(1); *see also Hometown Media, Inc.*, 11 FCC Rcd. 11413, 11416 (1996) (granting summary decision where "the truth is clear . . . [and] the basic facts are undisputed").

Section 616(a)(3) of the Communications Act of 1934 prohibits MVPD conduct that "unreasonably restrain[s] the ability of an unaffiliated video programming vendor to compete fairly by discriminating . . . on the basis of affiliation or non-affiliation . . . in the selection, terms, or conditions of carriage of video programming." Thus, GSN must prove by a preponderance of the evidence both that Cablevision discriminated on the basis of affiliation and that such discrimination unreasonably restrained GSN's ability to compete fairly.[43]

As the Commission has recognized, "Section 616 . . . appl[ies] only where an anticompetitive impact is shown in a particular case."[44] Although GSN can prove discrimination using direct or circumstantial evidence, "[r]egardless . . . [GSN must show] that the defendant MVPD's conduct has the effect of unreasonably restraining the ability of the complainant to

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[43] *Tennis Channel*, 717 F.3d at 983.

[44] Br. of Fed. Comm. Commission at 42, *Time Warner Cable Inc.* v. *FCC*, 729 F.3d 137 (2d Cir. 2013) No. 11-4138; *see also Time Warner Cable,* 729 F.3d at 164 (Section 616 "prohibits only affiliation-based discrimination by MVPDs and only when such discrimination is shown to have an anticompetitive effect").

compete fairly."[45] Thus, Section 616 "demand[s] proof of the significant or material detrimental effect implicit in the term 'unreasonable restraint.'"[46]

Unreasonable restraint is "case specific," but is "based on the impact of the charged adverse action 'on the programming vendor's subscribership, license fee revenues, advertising revenues, ability to compete for advertisers and programming, and ability to realize economies of scale."[47] In prior Section 616 cases, the Presiding Judge has focused on the complaining network's market-wide ability to be a viable competitor with access to substantial distribution opportunities to build economies of scale.[48] Thus, as the Presiding Judge cautioned in the *WealthTV* action, a complainant cannot satisfy its burden "merely by showing that the defendants' individual carriage decisions adversely affected its competitive position in the marketplace."[49]

Judge Kavanaugh's concurring opinion in *Tennis Channel* provides the most detailed judicial analysis of the unreasonable restraint provision of Section 616 to date. Emphasizing that Section 616 "applies only to discrimination that amounts to an unreasonable restraint under antitrust law," Judge Kavanaugh cautioned that while the statute "references

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[45] HDO ¶ 10.

[46] *Time Warner Cable*, 729 F.3d at 166.

[47] *Time Warner Cable*, 729 F.3d at 149; HDO ¶ 10 n.57.

[48] *See Tennis Channel, Inc.* v. *Comcast Cable Commc'ns, LLC*, Mem. Op. & Order, 27 FCC Rcd. 8508, 8540 (2012) (finding harms imposed on Tennis Channel by Comcast's tiering decision were "of such a magnitude that they clearly restrain Tennis Channel's ability to compete fairly with similarly situated networks in the marketplace"); *see also TCR Sports* v. *Comcast,* Mem. Op. & Hr'g Designation Order*,* 21 FCC Rcd. 8989, 8993 ¶ 11 (MB 2006) ("TCR argues that without carriage by Comcast, it will be impossible for MASN to reach the necessary level of subscribership to achieve long-term financial viability. . . .").

[49] *Herring Broadcast, Inc.* v. *Time Warner Cable Inc.*, 24 FCC Rcd. 12967, 13002 (2009); *see also Time Warner Cable*, 729 F.3d at 166 ("[W]e do not assume that the FCC will effectively nullify the unreasonable restraint requirement of [Section 616] by recognizing *any* detrimental effect on an unaffiliated network . . . rather than demanding proof of the significant or material detrimental effect implicit in the term 'unreasonable restraint.'").

discrimination against competitors . . . [it] does not ban such discrimination outright."[50] Instead, Section 616 reaches only discrimination that "*unreasonably restrains* a competitor from competing fairly."[51] Applying this standard to carriage disputes, "[v]ertical integration . . . between a video programming distributor and a video programming network . . . become[s] potentially problematic under antitrust law only when a video programming distributor possesses market power."[52] Thus, a complainant cannot demonstrate that an MVPD unreasonably restrained its ability to compete fairly unless the network can show that the MVPD has market power in the relevant market."[53] In reaching this conclusion, Judge Kavanaugh criticized the Commission for "focus[ing] on the effects of [an MVPD's] conduct on a competitor . . . rather than on overall competition."[54]

I. Cablevision Is Entitled to Summary Decision Because GSN's Ability to Compete Fairly Has Not Been Unreasonably Restrained as a Matter of Law

A. GSN's Claim Is Unsupported by Previous Program Carriage Case Law

The summary decision procedure is tailor-made for an undisputed factual record such as this one. Even accepting, for purposes of this motion, that GSN incurred some economic harm by losing Cablevision subscribers, there is no dispute that GSN remains a widely-

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50 *Tennis Channel*, 717 F.3d at 988, 992 (Kavanaugh, J., concurring).

51 *Id.* at 992 (Kavanaugh, J., concurring).

52 *Id.* at 988 (Kavanaugh, J., concurring).

53 *Id.* at 988 (Kavanaugh, J., concurring) ("Applying Section 616 to a video programming distributor that lacks market power not only contravenes the terms of the statute, but also violates the First Amendment as it has been interpreted by the Supreme Court."). Cablevision acknowledges the Presiding Judge's finding in an earlier case that "arguments that antitrust standards are encased in sections 616 and 76.1301(c) are unpersuasive" (*Herring Broadcast, Inc.* v. *Time Warner Cable Inc.*, 24 FCC Rcd. 12967, 13001 (2009)), but respectfully submits that in light of *Tennis Channel*, this analysis is not consistent with the law of Section 616 claims (*see Tennis Channel*, 717 F.3d at 991 n.1 ("Cable Act provisions such as Section 616 that mirror existing antitrust proscriptions serve an important regulatory purpose, akin to adding new police officers to enforce an existing law.")).

54 *Tennis Channel*, 717 F.3d at 991–92 (Kavanaugh, J., concurring).

distributed network with [redacted] million subscribers. In light of GSN's [redacted] in subscribers, distribution, and revenues since the retiering, whatever harm GSN purportedly suffered as a result of Cablevision's retiering cannot rise to the level of an "unreasonable restraint" on GSN's ability to "compete fairly."

The striking contrast between prior cases brought under Section 616 and this one drives the point home. Earlier cases involved newly-created or narrowly-penetrated networks seeking sufficient carriage to compete for the distribution, programming, and advertisers that could make them financially viable, capable of achieving scale, and positioned to offer competitive programming. The Presiding Judge's decision in the *Tennis Channel* action is illustrative. Tennis Channel (a network with approximately 35 million subscribers) challenged Comcast's decision to leave Tennis Channel on a tier that excluded 17 million Comcast subscribers.[55] Critical to the Presiding Judge's unreasonable restraint holding was the fact that Comcast's decision precluded Tennis Channel from reaching the "one in four viewers in the United States" controlled by Comcast.[56] The Presiding Judge found that, because Tennis Channel was denied access to such a significant portion of the national video programming market, the resulting "[s]maller licensing revenues make it more difficult for Tennis Channel to make investments (*e.g.*, procure sports programming) that are necessary . . . to remain competitive with other sports networks."[57] Moreover, the Presiding Judge found that Tennis Channel's subscriber base of 35 million prevented "economies of scale that would reduce costs

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[55] Initial Decision of Chief Admin. Law Judge Richard L. Sippel, *Tennis Channel, Inc.* v. *Comcast Cable Comm'ns, LLC*, 26 FCC Rcd. 17160 (2011).

[56] *Id*. at 17199.

[57] *Id*. at 17198–99.

of providing service on a per-subscriber basis."[58] Finally, because Tennis Channel had not reached the 40 million subscriber threshold that some advertisers apply when making purchasing decisions in the national television market, the Presiding Judge found that Comcast's actions impeded Tennis Channel's ability to sell advertising.[59]

None of those factors is present here. At the time of the retiering, GSN was fully distributed to [redacted] million subscribers, of which [redacted] million were Cablevision subscribers.[60] In the immediate aftermath of the retiering, GSN lost approximately [redacted] million of its Cablevision subscribers.[61] Today, GSN is distributed to [redacted] million subscribers, and has [redacted]—each of which dwarfs Cablevision in size. GSN's scale is therefore unquestioned and [redacted] since the date of the Cablevision retiering. GSN's licensing and ad revenues [redacted] since the retiering, and there is no issue surrounding its ability to meet any advertiser threshold. Nor has Cablevision's action prevented GSN from gaining the financial wherewithal to develop or purchase new programming, some of which has become quite successful. In short, GSN has not been "unreasonably restrained" in any sense in which that phrase was used in the *Tennis Channel* decision.

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58 *Id*. at 17199.

59 *Id*. at 17200–01. Although the D.C. Circuit reversed based on Tennis Channel's failure to demonstrate that Comcast "rejected [carriage] proposals that would have afforded Comcast *any* benefit," *Tennis Channel*, 717 F.3d at 984, the majority's grounds for reversal do not call into question the factors that would be relevant in assessing whether fair competition had been unreasonably restrained.

60 *See* Ex. 24 at 21.

61 *Id.* at 29.

Similarly, in the *WealthTV* litigation, which involved a network that was "not carried by 18 of the 25 largest MVPDs in the United States," the Presiding Judge noted as significant that the four defendant MVPDs foreclosed the nascent network from approximately 48 million subscribers—roughly half the national market.[62] WealthTV also provided evidence that it could not attract national advertisers until it had at least 20 million households, and would not be able to reach this threshold without carriage by at least one major MVPD.[63] And in the *MASN* litigation, the Media Bureau credited allegations that "it [would] be impossible for MASN to reach the necessary levels of subscribership to achieve long-term financial viability" without carriage from the defendant MVPD, Comcast.[64] Nothing close is presented here.

GSN's claim that it was "unreasonably restrained," if accepted, would not only depart from Commission precedent, it would effectively eliminate the requirement from Section 616. Any decision not to carry a network or to carry it on a less broadly penetrated tier of service by definition harms that network by reducing distribution. But Section 616 requires more: a showing that a network has been unreasonably restrained from competing fairly. Here, the undisputed facts show that GSN is a fully-penetrated, broadly-carried network, not a fledgling network struggling to gain enough subscribers to reach financial viability and scale. If a widely-distributed, [redacted]-million-subscriber network can claim an unreasonable restraint on its ability to compete fairly every time an MVPD's decision negatively affects a small sliver of the network's subscriber base, the unreasonable restraint provision of Section 616 loses all

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62 *Herring Broadcast, Inc.* v. *Time Warner Cable Inc.*, 24 FCC Rcd. 12967, 12971, 13001–02, 13001 n. 270 (2009).

63 *Herring Broadcast, Inc.* v. *Time Warner Cable Inc.*, 23 FCC Rcd. 14787, 14796–97 (2008).

64 *TCR Sports Broadcast Holding, L.L.P* v. *Comcast Corp.*, Hr'g Designation Order, 21 FCC Rcd. 8989, 8994 (2006).

meaning. At bottom, GSN has a "mistaken[] focus [on] the effects . . . on a competitor . . . rather than on overall competition," and even those effects are insufficient for a Section 616 claim.[65]

That is not to say that an adverse carriage decision by a single MVPD cannot give rise to an unreasonable restraint. But that adverse carriage decision must have an effect on a network's distribution that is considerably larger than any effect caused, in this case, by Cablevision, whose approximately [redacted] million total subscribers represent just over [redacted] of GSN's current subscribers and just under [redacted] of the national market in which GSN competes.[66] Cablevision's size, coupled with the broad distribution that GSN enjoys in that national market, means that Cablevision's carriage decision cannot, as a matter of law, unreasonably restrain GSN's ability to compete as a national network.

B. The Undisputed Record Demonstrates That GSN [redacted]

A trial is not necessary because the undisputed facts demonstrate not just that GSN could compete fairly after Cablevision's retiering, but that it has enjoyed [redacted]

GSN has had [redacted] Prior to the carriage decision at issue, GSN had [redacted] million subscribers—far exceeding complainant networks in past carriage cases.[67] Despite the [redacted] drop in GSN subscribers in the immediate aftermath of the Cablevision retiering, GSN [redacted] million subscribers and

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65 *Tennis Channel*, 717 F.3d at 991–92 (Kavanaugh, J., concurring).

66 [redacted]

67 [redacted]

projects [redacted] million subscribers by the end of 2015.[68] Since the retiering, GSN has [redacted] As a result, GSN's revenues have [redacted][71] GSN's [redacted] since the retiering alone justify a finding that the retiering has not remotely restrained GSN's ability to compete fairly.[72]

GSN has a large subscriber base and ample financial resources to compete for and launch original programming, [redacted][73] There is no evidence that GSN's programming involves unique economic characteristics such as limited supply or a geographically limited market that are prevalent with, for example, the sports programming in *Tennis Channel* or on regional sports networks.[74] According to Mr. Goldhill, GSN has [redacted]

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68 [redacted] Although one of GSN's experts testified in a prior case that a 20% foreclosure is the threshold for anticompetitive conduct, that same expert now focuses on GSN's [redacted] drop in subscribers. *See* Ex. 37 (Excerpt from Singer *NFL* Testimony) ¶ 70 & n.68.

69 *See supra* pp. 6–7; [redacted]

70 [redacted]

71 [redacted]

72 As GSN's CEO recently testified, [redacted]

73 [redacted]

74 *Cf. TCR Sports Broad. Holding, L.L.P.* v. *Time Warner Cable Inc.*, 23 F.C.C.R. 15783, 15799 (Oct. 30, 2008) (noting that "regional sports programming is among the most expensive programming in the industry" and that

[redacted][75] In fact, GSN is projected to launch [redacted][76]

Nor has GSN been unreasonably restrained from competing for advertisers. Although GSN contends that [redacted] GSN cannot offer evidence demonstrating a causal link between the retiering and [redacted] that could restrain its ability to compete.[77] The numbers alone disprove GSN's claim: GSN's ad revenues have [redacted].[78] At his deposition, [redacted], all Mr. Goldhill could offer were [redacted][79]

Furthermore, while complainant networks in prior carriage cases have alleged that national advertisers will not purchase advertising on networks with fewer than 20–40 million subscribers, [redacted]

"[b]ecause [regional sports networks], unlike national networks, are regional in nature, they require access to the maximum number of subscribers within their footprints, including . . . extended inner markets, in order to compete effectively"), *rev'd on other grounds* 25 F.C.C.R. 18099 (Dec. 22, 2010).

75 [redacted]

76 [redacted]

77 *See* HDO ¶ 32.

78 [redacted]

79 [redacted]

[redacted]. Indeed, one of GSN's experts, Mr. Brooks—who testified in *Tennis Channel*—concedes that [redacted][80] GSN's economic expert, Dr. Singer, previously testified in *Tennis Channel* that a network with more than 40 million subscribers—[redacted] can "compete effectively for advertisers and programmers."[81] So too here.

Despite the undisputed evidence of [redacted] GSN will likely argue that it [redacted] as a result of Cablevision's decision to move the network to a less penetrated tier of service. This argument is not based on any facts—even with the benefit of the supplemental discovery period permitted by the Presiding Judge, GSN has failed to come forward with any concrete factual evidence to show [redacted] As a result, it has been forced to retreat to [redacted] Based on that model, GSN contends that it has [redacted][82] The expert's opinion is irrelevant. The question for the Presiding Judge is not whether GSN could have sold more advertising in the absence of retiering, but whether GSN has been unreasonably restrained in its ability to compete as a result of the retiering. As set forth above, [redacted] GSN's

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80 [redacted]

81 Ex. 39 ¶ 31.

82 [redacted]

[redacted] since the retiering flatly contradicts any claim that GSN has been unable to compete.[83]

C. GSN Cannot Establish That Cablevision Has Market Power

Finally, set against the backdrop of undisputed facts in this case, GSN cannot show it has been unreasonably restrained through conclusory assertions that Cablevision has "market power" in some undefined market. GSN at times points to Cablevision's market share in the New York DMA, but offers no analysis demonstrating why the New York DMA—or any other limited geographic area—is the relevant market in which to measure an MVPD's market power as applied to a national programming network. Nor does GSN show how Cablevision's market share in the New York DMA could conceivably restrain a widely-distributed national network like GSN from competing fairly in the national market.

Instead, GSN's expert, Dr. Singer, does little more than show that Cablevision has a plurality of subscribers in the New York DMA. Dr. Singer opines that the relevant market is the New York DMA because "[a]ny decision to discriminate in favor of an affiliated network . . . is a local one."[84] But he provides no basis for this opinion, and indeed, takes no position on whether [redacted][85]

The purported market on which Dr. Singer focuses is certainly not the "national video programming distribution market" identified as the relevant market by Judge Kavanaugh

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83 Moreover, GSN cannot avoid summary decision by citing its expert's misinterpretation of the undisputed factual record. *See Raskin* v. *Wyatt Co.*, 125 F.3d 55, 66–67 (2d Cir. 1997) ("[A]n expert's report is not a talisman against summary judgment."); *Merit Motors, Inc.* v. *Chrysler Corp.*, 569 F.2d 666, 673 (D.C. Cir. 1977) ("To hold that Rule 703 prevents a court from granting summary judgment against a party who relies solely on an expert's opinion that has no more basis in or out of the record than [plaintiff's expert's] theoretical speculations would seriously undermine the policies of Rule 56.").

84 *See* Ex. 8 ¶ 22.

85 [redacted]

in *Tennis Channel* based on the Commission's analysis in that case. Like GSN here, Tennis Channel was a national network.[86] Although the FCC concluded that Comcast unreasonably restrained Tennis Channel, it reached that conclusion in the context of analyzing a national market.[87] Judge Kavanaugh also focused on the relevant national market, but concluded that Comcast's 24% market share was insufficient to demonstrate market power.[88] Cablevision, of course, is a far smaller MVPD with around [redacted] of the national market.[89] It cannot be found to have market power over a national network like GSN, which is [redacted][90] Cablevision customers who wish to watch GSN can either add the Sports and Entertainment Tier on Cablevision or "vote with their feet" and switch providers within the intensely competitive New York DMA.[91] Moreover, Cablevision faces growing competition from online video providers that supply content over the Internet at nominal cost.[92] In short, GSN has not substantiated its allegations of Cablevision market power, and cannot avoid the entry of summary decision on this basis.

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[86] *See Tennis Channel, Inc.* v. *Comcast Cable Commc'ns*, *LLC*, Mem. Op. & Order, 27 FCC Rcd. 8508, 8511 (2012); HDO ¶ 6.

[87] *See Tennis Channel*, Mem. Op. & Order, 27 FCC Rcd. at 8539.

[88] *Tennis Channel*, 717 F.3d at 992, 994 (Kavanaugh, J., concurring).

[89] [redacted] That is not to say that Cablevision, or any other MVPD, could never have market power in a properly-defined market under certain circumstances. Whatever those circumstances may be, they are not present here.

[90] *Supra* pp. 7–8 (discussing competition within the New York DMA).

[91] While Judge Kavanaugh's *Tennis Channel* concurrence leaves open the possibility that an MVPD's presence in a local market could be relevant for Section 616 purposes (717 F.3d at 992 n.3), such concerns are not implicated in competitive markets like the New York DMA where "an unaffiliated network may still be able to reach many consumers through competing MVPDs, like DBS and telephone companies, and [online video distributors]" (*Time Warner Cable*, 729 F.3d at 163).

[92] *See Tennis Channel*, 717 F.3d at 993 (Kavanaugh, J., concurring) ("[T]he video programming distribution market has changed dramatically, especially with the rapid growth of satellite and Internet providers.").

II. GSN Cannot Create an Issue of Fact with Speculative Claims About Unrealized Injuries

Faced with an undisputed record that undercuts its carriage complaint, GSN resorts to bald assertions that it has been unreasonably restrained because [redacted] For example, [redacted][93] This argument is, if not pure bootstrapping, complete speculation.

The undisputed evidence demonstrates that GSN has [redacted] in every agreement it has negotiated since the Cablevision retiering. [redacted][94] GSN's argument also ignores the nature of carriage agreements, which extend years, if not decades, into the future. [redacted]

93 [redacted]

94 [redacted]

95 [redacted]

[redacted]

Under D.C. Circuit precedent, "[s]peculative allegations concerning possible reductions in service from other sources" cannot justify regulatory action against an MVPD.[97] In *Quincy*, the D.C. Circuit invalidated the Commission's must-carry rules, finding that the Commission failed to "adequately prove[ ] that without the protection afforded by the must-carry rules the economic health of local broadcast television is threatened by cable."[98] The court criticized the Commission for relying on "the kind of 'speculative allegations' it expressly refused to credit in other contexts," noting that it was the Commission's "explicit agency policy" that the regulation of cable providers should be backed by "hard evidence" and that "*something more than mere conjecture* . . . should be required before we impose regulatory constraints and burdens on one industry or technology in favor of another."[99] In other contexts, the D.C. Circuit has repeatedly found that speculative allegations do not establish injury in fact.[100] This is particularly so where the alleged future harm depends on the action or inaction of a third party.[101]

96 [redacted]

97 *Quincy Cable TV, Inc.* v. *FCC*, 768 F.2d 1434, 1458 (D.C. Cir. 1985) (internal citation omitted).

98 *Id*. at 1440–42.

99 *Id.* at 1458 (emphasis added).

100 *See Harrington* v. *Bush*, 553 F.2d 190, 198, 205 n.68, 209 (D.C. Cir. 1977) (holding that an allegation of harm to a congressman's ability to "consider, initiate, support or vote for the impeachment of the defendants" was too 'speculative,' 'conjectural' or 'remote'" to establish injury because the alleged harm "would take place, *if at all*, at some undetermined time in the future . . . ." (emphasis added)).

101 *See United Trans. Union* v. *Interstate Commerce Comm'n*, 891 F.2d 908, 912 (D.C. Cir. 1989) (rejecting "predictions of future events (*especially future actions to be taken by third parties*) and *those which predict a future injury that will result from present or ongoing actions* . . . .'" (emphasis added)); *Friends of Keesville, Inc.* v. *F.E.R.C.*, 859 F.2d 230, 236 (D.C. Cir. 1998) (rejecting a claim that plaintiff "may in the future be denied a benefit which it would have received had this court ruled in its favor" as "mere potential for future injury").

CONCLUSION

For the foregoing reasons, Cablevision respectfully requests that the Presiding Judge grant its motion for a summary decision and dismiss GSN's carriage complaint with prejudice.

Dated: April 29, 2015

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Mary C. Lovejoy, hereby certify that on April 29, 2015, a true and correct copy of the foregoing Motion for Summary Decision of Cablevision Systems Corporation was filed with the Federal Communications Commission and copies were served on the following by Federal Express overnight delivery:

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EXHIBIT 1

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EXHIBIT 4

Public Version

DIRECT TESTIMONY OF DAVID GOLDHILL GSN Exh. 218

I, David Goldhill, hereby declare:

A. Background

1. I have served as the President and Chief Executive Officer of Game Show Network, LLC ("GSN") since 2007. In this role, I oversee GSN's distribution, guide the network's programming strategy, and lead development of the audience and advertiser base for the network.

2. I have more than 20 years of experience in the media industry. Prior to joining GSN, I served as president and chief operating officer of Universal Television Group, where I oversaw program and asset development and distribution activities for the company's domestic and international cable networks (including USA Network and SciFi), cable and network television studios, first-run syndication business, and worldwide television distribution. I previously was executive vice president and chief financial officer of Act III Communications, a privately-owned holding company with interests in television stations, movie theaters, magazines, and film/television production, and was chief executive officer and then chairman of the board of Independent Television Network Holdings, Ltd., which built the TV3 television network in Russia.

3. In addition to my experience running media businesses, I also have substantial experience in the finance industry. I worked as a senior advisor to Associated Partners, an investment firm specializing in media, telecommunications and technology. Previously, I was an investment banker at Morgan Stanley and Lehman Brothers.

B. The Networks

4. GSN launched on December 1, 1994 as "Game Show Network." For years, the network has enjoyed broad distribution from multichannel video programming distributors ("MVPDs") throughout the country, including — until the events in question — on Cablevision. Sony Pictures Entertainment, Inc. ("Sony") and DIRECTV have indirect ownership interests in GSN. [redacted]

5. I joined GSN in 2007 as its Chief Executive Officer. In 2004, GSN began referring to its service as "GSN" rather than "Game Show Network" in order to present itself as a general interest network that appeals to women. To continue that effort, and recognizing that GSN's audience was already heavily female, when I became CEO in 2007, I adopted a programming strategy that would more directly cater to the network's female audience.

6. To that end, I hired programming and marketing executives with experience at other female-oriented networks like Lifetime and E! Entertainment Television. Together, we developed an original programming slate that was designed to capture viewers in the women 18-49 and 25-54 demographics. We updated our marketing efforts to promote our female-oriented shows and focused heavily on the female demographics in our advertising sales efforts.

7. In part as a result of these efforts, by 2009 and continuing through today, GSN is a general interest network that features (largely through reality competition and game show formats) extensive female-oriented original programming that, at the time of the events at issue in this case, accounted for more than [redacted] of its primetime schedule. Among other things, GSN offers reality and game programming that is relationship- and female-oriented. For

EXHIBIT 5

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EXHIBIT 6

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EXHIBIT 7

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EXHIBIT 8

Before the

Federal Communications Commission
Washington, DC 20554

In the Matter of	)	
	)	
Game Show Network, LLC	)	MB Docket No. 12-122
v.	)	File No. CSR-8529-P
Cablevision Systems Corp.	)	

SUPPLEMENTAL REPORT OF HAL J. SINGER, PH.D.

INTRODUCTION

1. I have been asked by counsel for Game Show Network, LLC ("GSN") to supplement my March 2013 direct testimony in light of the D.C. Circuit's decision in *Comcast v. FCC*. I understand that plaintiffs in Section 616 discrimination complaints may bear a new evidentiary burden, which may be met by establishing that either (a) the vertically integrated cable operator ("VICO") sacrificed downstream distribution profits by deciding to tier the independent network (the "profit-sacrifice test");[1] or (b) that any incremental losses from carrying the independent network broadly would be the same as or less than the incremental losses the VICO incurred from carrying its affiliated networks broadly (the "net-profit-sacrifice test").[2] Such proof of a profit sacrifice allows one to infer that a rational firm would not do so unless there was some offsetting gain to its affiliated (and similarly situated) network. In this

1. *Comcast v. FCC*, 717 F.3d 982, 986 (D.C. Cir. 2013) ("Comcast Opinion").
2. *Id.* A third approach articulated in *Comcast* that entails direct evidence of discrimination does not lend itself to economic analysis, and for that reason, I have not been asked to inform that test. The court suggested that discrimination could be found if it is shown that the carriage decision was motivated by "some deeper discriminatory purpose" rather than by an "otherwise valid business consideration." *Id.* at 987.

contemplated by the D.C. Circuit, which considered only a top-line measure "that Y number [that] would leave Comcast in the absence of broader carriage."[11] A reasonable lower-bound estimate of churning Cablevision customers in the absence of the subsidy is (1) the [redacted] subsidized-sports-tier subscribers, who presumably threatened to leave Cablevision after the tiering to secure the subsidy, plus (2) the midpoint between the [redacted] and [redacted] additional customers who churned after the tiering episode *despite the presence of the subsidy*. Expressed as a percentage of Cablevision customers who watched at least one hour of GSN per month in April 2010 ("GSN households"), the implied GSN churn rate is [redacted] percent.[12] At approximately [redacted] per subscriber per month in lost margins on the Family tier for each churning customer,[13] Cablevision would have incurred monthly losses of at least [redacted] on the churning customers.

7. In addition to these losses related to churn, a calculation of Cablevision's monthly loss must account for the loss in goodwill for the non-churning customers who called to complain about the tiering episode. In particular, [redacted] customer complaints imply a significant loss in goodwill. Goodwill is important to maintain because it permits Cablevision to raise its video prices each year; a dissatisfied customer is less inclined to tolerate a price increase.[14] Even though many of these customers did not ultimately churn, to the extent that their

11. *Comcast Opinion* at 986.

12. Equal to [redacted] churning customers divided by [redacted] GSN households. GSN households are based on an extrapolation from the [redacted] share of Cablevision customers in Orszag's set-top box sample who watched at least one hour of GSN in April 2010 to the estimated [redacted] basic-tier Cablevision subscribers in New York-New Jersey-Connecticut areas. *See* [redacted].

13. Singer Direct Testimony, ¶75.

14. According to SNL Kagan, Cablevision has increased its average monthly revenue per video user in New York from [redacted] During this period of consistent price hikes,

probability of churning increased as a result of the tiering episode, these customers would be less inclined to tolerate a price increase after the tiering episode.[15] A reasonable measure of the diminution in goodwill is the size of the subsidy offered by Cablevision to preserve customer relations; Cablevision's subsidization policy reveals its willingness to pay this subsidy to any or all of the [redacted] complaining customers. Applied across the [redacted] customers who did not churn (but whom Cablevision nevertheless stood ready to subsidize), the incremental cost is [redacted], which brings the total costs of tiering GSN to [redacted]. Thus, even with highly conservative assumptions, by tiering GSN, Cablevision incurred downstream monthly losses of [redacted].

8. I have conservatively estimated the forgone margins on Family-tier video subscriptions only. To the extent that GSN households are like the average Cablevision customer, who tends to subscribe to larger packages (and to rent set-top boxes), this estimate will understate the forgone margin of a churning GSN household. For example, Cablevision's average video revenues per unit in 2010 were approximately [redacted], climbing to nearly [redacted] by 2011,[16] which greatly exceeds the [redacted] Family tier revenue on which I rely to estimate lost margins associated with churn; using this higher monthly revenue figure from 2011

Cablevision's video subscribership in the New York market showed only a modest decline, from 3.1 million in 2007 to 2.9 million in 2012.

15. *See*, *e.g.*, Eun-A Park & Richard Taylor, Barriers to Entry Analysis of Broadband Multiple Platforms: Comparing the U.S. and South Korea, Telecommunications Policy Research Conference, September 29-October 1, 2006 ("In industries where products are differentiated, however, advertising, brand proliferation and *goodwill* have been identified as possible important sources of (strategic) barriers to entry in some circumstances.") (emphasis added).

16. Tony Lenoir, Video revenue growth lags HSD, phone since 2007; leads on ARPU basis, SNL Kagan Multichannel Market Trends, March 20, 2013, *available at* http://www.snl.com/interactivex/article.aspx?id=17239173&KPLT=6 (accessed April 29, 2013).

short-run price or output effects, which are the traditional aims of antitrust enforcement.[38] For example, knowing that it must surrender its equity to a cable operator to secure carriage, an independent network might abandon its plans to enter the programming industry altogether, or be less inclined to make certain investments in programming or innovate in other ways. To borrow an example from labor economics, society does not give employers a license to discriminate so long as there is no evidence of wage effects. From a policy perspective, discrimination is offensive not because it generates short-term price effects, but because it deprives candidates of an opportunity to prosper on the basis of some attribute outside of their control.

21. Notwithstanding the shortfalls of narrowly judging carriage discrimination through an antitrust lens, an assessment of Cablevision's market power may nonetheless inform whether a VICO is predisposed to discriminate against an independent network for reasons unrelated to efficiencies.

22. Any decision to discriminate in favor of an affiliated network (or against a similarly situated, independent network) is a local one, and the decision is informed, at least in part, by the VICO's degree of market power in the local distribution market.[39] The FCC has previously acknowledged the importance of local market analysis. For example the FCC adopted

38. *See*, e.g., TIM WU, MASTER SWITCH: THE RISE AND FALL OF INFORMATION EMPIRES (Vintage 2012) (explaining that modern antitrust law is ill-equipped to contain the "special case" of concentrated power over and vertical integration of the creation and delivery of information).

39. It bears noting that the largest cable operator that existed at the time of the Cable Act's passage, TCI, controlled only 18 percent of all video households nationwide, suggesting that any concern over "bottleneck control" must be at the local level or within the cable operator's local footprint. *See* FCC, *In the Matter of Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, CS Docket No. 96-133, Third Annual Report (rel. Jan. 2, 1997) (hereinafter *Third Annual MVPD Report*), *available at* http://transition fcc.gov/Bureaus/Cable/Reports/fcc96496.txt.

a local market test developed by Professor Austan Goolsbee[40] to show that the degree of favoritism afforded by a VICO to its affiliated network in a given local area increases with the operator's market share in the local downstream distribution market.[41]

For this reason, I assess Cablevision's market power in the supply of video programming in the New York metropolitan area. Cablevision's presence in the New York metropolitan area makes it the fifth largest MVPD in the United States by both subscribership and number of households with access to its cable infrastructure ("homes passed").[42] I conclude that Cablevision has sufficient market power to give rise to the discriminatory impulse identified by Professor Goolsbee. I take no position as to whether Cablevision has the requisite market power to generate anticompetitive effects. I conclude by explaining how Cablevision's market power in New York allows it to inflict harm on GSN nationally.

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40. The FCC adopted Professor Goolsbee's analysis in its order approving Comcast's acquisition of NBCU. *See In the Matter of Applications of Comcast Corporation, General Electric Company and NBC Universal, Inc. For Consent to Assign Licenses and Transfer Control of Licensees*, Memorandum Opinion and Order, MB Docket No. 10-56 (rel. Jan. 20, 2011), ¶ 70.

41. Professor Goolsbee's model is predicated on the notion that in local markets where the VICO faces increased downstream competition from satellite and telephone providers, the VICO can less afford to overtly favor its own networks; in other words, if the observed favoritism decreases as the VICO's local market share decreases, then the favoritism is less likely motivated by efficiency reasons. *See* Austan Goolsbee, Vertical Integration and the Market for Broadcast and Cable Television Programming, FCC Media Ownership Study (2007) at 2 ("Looking at decisions of cable systems regarding what channels to carry shows that carriage rates for vertically integrated channels are higher on systems that own the given network *but only in places where there is not much competition from DBS*. This suggests, potentially, a problem for an efficiency based explanation for the behavior.") (emphasis added);. *id.* at 29 ("For those nine [vertically integrated networks], the interaction of vertical integration with the DBS share has a significant negative coefficient. This evidence suggests, perhaps, an explanation rooted in competitive pressures rather than efficiencies.").

42. See SNL Kagan, Top Cable MSOs 12/12Q. Cablevision acquired a presence in the western United States in 2010 upon its acquisition of Bresnan Communications, but predominantly serves the New York metropolitan area. As of 2012 Cablevision passed approximately 4,979,000 homes in the New York metropolitan area and 667,000 homes in Montana, Wyoming, Colorado, and Utah combined. In the same year it had 2,893,000 video subscribers in the New York metropolitan area and 304,000 customers in Montana, Wyoming, Colorado, and Utah combined. *See* CABLEVISION SYSTEMS CORP. SEC FORM 10-K (filed February 28, 2013) at 3.

EXHIBIT 9

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Game Show Network, LLC	)	MB Docket No. 12-122
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v.	)	File No. CSR-8529-P
	)	
Cablevision Systems Corp.	)	

SUPPLEMENTAL REPORT OF TIMOTHY BROOKS

TABLE OF CONTENTS

(3) Finally, in exploring a "deeper discriminatory purpose," I find a long history of Cablevision treating GSN unfavorably compared to its affiliated networks, such as WE tv and Wedding Central. In addition, {{[redacted]}} At the same time, GSN is not owned by a major multi-network provider (i.e., GSN is one of the few truly "independent" networks) and therefore was unable to retaliate against Cablevision in the marketplace in the same way that other providers could. These reasons are unrelated to a valid business decision based on the relative merits of GSN, WE tv and Wedding Central.

II. ANALYSIS OF GSN'S AFFIRMATIVE NET BENEFIT TO CABLEVISION

A. Basis of Evaluation

6. The two most critical factors for an MVPD in evaluating carriage of a network are audience size and loyalty.[1] Indeed, {{[redacted]}} I believe that GSN met

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[1] This assumes that carriage is not required by other contractual arrangements (the practice of "bundling" will be discussed later). Virtually all highly rated cable networks are broadly distributed. *See* SNL Kagan, Economics of Basic Cable Networks, 43-47, 54-55 (2013). Cablevision expert Mr. Orszag acknowledged {{[redacted]}} *See* Orszag Expert Report § III ¶¶ 72-73. *See also* CV-GSN 0425003 {{[redacted]}}.

[2] *See id; see also* Montemagno Dep. 25:23-27:02, 34:7-35:16 [redacted]}; Dolan Dep. 121:10-122:11 {{[redacted]}}; Broussard Dep. 110:19-111:15 {{[redacted]}}

Women as Percent of Total Day Adult Audience[6]

{{ [redacted] }}

B. National Performance of GSN

10. Nationally, GSN ranked {{ [redacted] }} networks measured by Nielsen in 2013—roughly, {{ [redacted] }}—while WE tv {{ [redacted] }}. Among the aforementioned women's networks, GSN drew {{ [redacted] } audiences than Oxygen, OWN or WE tv, and {{ [redacted] }} Hallmark, Lifetime and Bravo. This is similar to the ranks for these networks in 2010.[7]

2013 Total Day CVG Rating[8]
(Ranked on Household ratings)

{{

Overall Rank	Network	HH	Persons 2+	Women 18+
[redacted]				

11. GSN's performance has been quite steadily strong over time. It has averaged approximately a {{ [redacted] } HH rating within its coverage area over the past five years, while WE tv has averaged a {{ [redacted] }. {{ [redacted]

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[6] Nielsen, Monday-Sunday 24 hour, live+3 day, January-December each year except 2014, which is January-June. Women 18+ as a percent of persons 18+.

[7] Except for OWN, which was not then measured. *See* Brooks Direct Testimony § III.B.(1) ¶ 20

[8] Nielsen, Monday-Sunday 24 hour live+3 day coverage area ratings, 12/31/12-12/29/13.

[redacted].}} As noted above, Nielsen did not provide audience estimates for Wedding Central.

National Audience Summary[9]

{{

	Total Day			
	Households		Women 18+	
	GSN	WE	GSN	WE
2009	[redacted]			
2010				
2011				
2012				
2013				
Avg (2009-13)				

C. **Performance of GSN in the Top Ten Markets**

12. To see how GSN does in large markets similar to New York, I turned to its performance in the top ten U.S. markets. {{[redacted].}} As will be discussed later, GSN's {{[redacted].}}

[9] Nielsen, Monday-Sunday 24 hour live+3 day coverage area ratings, January-December each year.

2010 Total Day Households: Top Ten Markets[10]

{{ [redacted] }}

[10] Nielsen, Monday-Sunday 24 hour, live+3 day, ratings in wired cable households. 1/1/2010-12/31/10 and 1/1/2013-12/31/2013. Figures reflect total market, not coverage area, ratings. {{[redacted]}}

EXHIBIT 10

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EXHIBIT 11

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EXHIBIT 18

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Withheld

EXHIBIT 19

Public Version

GSN Exh. 223

Before the

Federal Communications Commission
Washington, DC 20554

In the Matter of	)	
	)	
Game Show Network, LLC	)	MB Docket No. 12-122
v.	)	File No. CSR-8529-P
Cablevision Systems Corp.	)	

TESTIMONY OF HAL J. SINGER, PH.D.

found a price per rating point of [redacted] for GSN and [redacted] for WE tv using New York DMA rating data. It bears noting that [redacted],[122] which suggests that this comparison is conservative. GSN appears [redacted] to WE tv even in the New York DMA. But the point of the test is not to determine the extent to which GSN is more valuable than WE tv. Rather, it is to determine whether Cablevision could be justified in treating GSN differently than WE tv. Based on this standard measure of value—regardless of whether one considers national ratings, as I did in my initial declaration, or local ratings—there is no such justification.[123]

B. Carriage Decisions of Other Programming Distributors

70. Although the best metric for evaluating whether Cablevision's tiering policy was discriminatory is to evaluate its treatment of a network relative to its treatment of similarly situated affiliates, it also is relevant that, relative to its peers, Cablevision carries GSN on significantly less favorable terms. Following the retiering, GSN reaches approximately [redacted] of Cablevision's [redacted] basic subscribers. According to SNL Kagan, GSN's penetration across all MVPDs was projected to be [redacted] by 2011.[124] As demonstrated in Table 8, Cablevision's peers—defined as all MVPDs with over two million basic

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122. [redacted]

123. Mr. Orszag [redacted]

124. *Kagan Basic Cable* at 34.

subscribers—carry GSN on tiers that reach on average nearly [redacted] the proportion of subscribers than does Cablevision ([redacted] versus [redacted]).

TABLE 8: TIERING DECISIONS OF LARGE MVPDS AS OF JUNE 2011

Distributor	**Total Basic Subscribers**	**GSN Subscribers**	**GSN Penetration to Basic Subscribers**
	1	2	3 = 2 / 1
Comcast	[redacted]		
DirecTV			
Time Warner / Bright House			
Dish^			
Cox*			
Charter			
Verizon			
Cablevision**			
AT&T			
Totals (excluding Cablevision)			

Sources: [redacted]

Notes: ^ Estimated based on U.S. subscribership; * Cox [redacted]; ** This figure includes carriage on cable systems that Cablevision recently acquired from Bresnan, outside of the New York market.

71. Accordingly, Cablevision cannot plausibly argue that its tiering policy vis-à-vis GSN is supported by the choices of its peers.[125] For the forgoing reasons, GSN's pricing and ratings do not offer an alternative, efficiency explanation that could explain Cablevision's conduct vis-à-vis GSN. Barring some convincing efficiency explanation that explains not only Cablevision's treatment of GSN but also its more favorable treatment of Cablevision-affiliated

125. Mr. Orszag discounts the GSN penetration data from Cablevision's rivals—data that he cited in his NFL testimony as the "most direct and compelling evidence" of discrimination—and instead focuses on the fact that two operators (Time Warner and Verizon) carry WE tv on their expanded basic service tiers, but carry GSN on a less penetrated tier, despite the fact that both carry GSN more generously than does Cablevision. *Orszag Report* ¶130. That DISH, Cox, AT&T, Time Warner and Verizon offer GSN on a less penetrated tier than the expanded basic service tier is irrelevant—GSN is not demanding carriage on Cablevision's expanded basic service tier *per se*; it is demanding equal carriage, which could be satisfied on any tier. The only explanation Mr. Orszag can fathom for the disparate treated afforded GSN by Cablevision (relative to Cablevision's peers) is Cablevision's allegedly urban base of subscribers. But other cable operators, including Comcast, have significant urban footprints, yet they tend to carry GSN more broadly. He acknowledges that "many MVPDs choose to carry WE tv and GSN in a similar way." *Id.* ¶141.

industry to change its carriage arrangements overnight, particularly to the extent that those arrangements are covered by existing contracts with terms that expire over the course of a period of time. As GSN's contracts come up for renewal, however, other cable operators might consider Cablevision's retiering and use it to GSN's detriment in bargaining. [redacted][149]

D. Inability to Compete for Advertisers and Viewers

85. As a consequence of Cablevision's discriminatory tiering policy, GSN is restrained in its ability to compete effectively for viewers and advertisers. According to economic theory, Cablevision should be able to increase subscribership and advertising revenues for its own programming content by disadvantaging GSN. GSN and WE tv need not be perfect substitutes to generate these effects.

86. As long as GSN's footprint contains a hole in the coveted New York market, GSN is restrained in its ability to compete effectively for advertisers, many of which view coverage in the New York market [redacted][150] Indeed, economic research has shown that gaps in a network's coverage area have grave consequences for advertising revenues.[151] According to SNL Kagan, Cablevision supplied nearly [redacted] of all video subscribers in the New York DMA in the second quarter of 2011.[152] And the New York DMA accounts for between [redacted] of

149. Hopkins Testimony, ¶22.

150. *Goldhill Declaration*, ¶17 [redacted].

151. Chen & Waterman, *supra*, at 230 ("For an ad-supported basic cable network, moreover, cost-per-thousand advertising rates are known to be an increasing function of the network's national audience reach, and advertisers regard geographic gaps in the national audience coverage of a given network to be a serious disadvantage. In this case, strategic vertical foreclosure may thus compound a rival network's disadvantage in offering a competitive quality of programming") (citations omitted).

152. [redacted]

all television households in the United States.[153] Finally, [redacted].[154]

87. Further, the impact of Cablevision's retiering appears to have been felt beyond the New York market. In particular, I analyzed the effect of Cablevision's retiering on an important subset of GSN's advertising sales that was vulnerable—upfront and scatter sales. These "general rate" advertisements accounted for [redacted] of GSN's total advertising revenue from 2004 through the tiering date; the remainder was comprised of "direct response" ads, which require viewers to dial back the advertiser to consummate a purchase, and infomercials. Unlike its data for "direct response" advertising, which combines local and national sales prior to 2010,[155] I understand that GSN's data for "general rate" advertising sales include only national advertising accounts.[156] (GSN's data for infomercials include only national accounts as well.) If the retiering affected GSN's general-rate advertising sales in the New York DMA only, then one would expect GSN's general-rate advertising to decline by at most [redacted] after the tiering. But the actual decline in general-rate advertising attributable to tiering appears to be much larger ([redacted]).[157]

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153. [redacted]

154. *See* GSN Exh. 24 [redacted] *See also* GSN Exh. 165, [redacted]

155. [redacted] *See also* GSN Exh. 174.

156. I am therefore limited in my ability to estimate whether the retiering affected GSN's national, direct-response advertising sales. The tiering likely did not affect local, direct-response advertising sales outside of the New York DMA.

157. That GSN's average advertising rates [redacted] is not evidence of the lack of harm from the tiering, as suggested by Mr. Orszag. The relevant question is not whether

88. To estimate the impact of the tiering on GSN's general-rate advertising revenues, I estimated a regression model, which controls for quarterly effects, a time trend (linear and squared), growth of gross domestic product (GDP), and GSN's all-day household television national ratings.[158] The model was fit to 34 quarters of data through the second quarter 2012. The in-sample predictive power of the model is very high; the model explains [redacted] of the variation in GSN's general-rate advertising over this time horizon. As expected, [redacted]. Table 9 shows the results.

GSN's ad rates went up (or down), but rather whether they would have gone up by more *but for the tiering*. When constructing a damages model, an economist must construct the relevant benchmark; the pre-tiering period does not serve as the proper benchmark because other factors that influence GSN's advertising rates have changed. By the same logic, that GSN's cash flow margins, income from operations, affiliated fee revenue, or net advertising revenue increased from 2010 to 2011 is not proof of lack of harm. *Orszag Report*, ¶¶146-47. For example, total advertising revenue is a function of many things not affected by the tiering, including local advertising sales outside of New York; this is why I focused on national general-rate sales. Under Mr. Orszag's test, no growing or profitable network could ever bring a discrimination claim; only networks that limp into the Commission would be eligible for protection from discrimination.

158. To control for the Gambling Control Commission's June 2011 investigation of certain online poker websites—some of which were significant purchasers of general-rate advertising on GSN—I exclude all advertising revenues related to poker throughout the entire time series. As it turns out, there were no poker-related advertisers in GSN's ad database after the third quarter of 2011.

TABLE 9: REGRESSION RESULTS - GSN GENERAL RATE (UPFRONT & SCATTER) QUARTERLY ADVERTISING SALES, 1Q 2004 – 3Q 2012

Explanatory Variable	Coefficient	p-value
Tiering Dummy	[redacted]	
Time Trend		
Time Trend squared		
GDP Growth		
National Ratings		
Quarter = 2		
Quarter = 3		
Quarter = 4		
Constant		
r2		
N		

Note: * for p<.05, ** for p<.01, and *** for p<.001.
Sources: GSN Exh. 174, [redacted]

As Table 9 shows, the coefficient on the tiering variable is [redacted] and statistically significant at the five-percent level (the p-value is slightly over one percent, implying that it is almost significant at the one percent level). This result demonstrates that, controlling for other things that affect GSN's general-rate advertising, Cablevision's tiering is associated with a [redacted]. This result is robust to changes in regression specification.[159] The same result is obtained in an analysis of GSN's combined generate-rate advertising and infomercials (which are also sold nationally),[160] and the combined results are also robust to changes in specifications. Although it possible that GSN's direct-response advertising [redacted]

159. For example, I used alternative measures of ratings from specific DMAs such as Philadelphia and Los Angeles.

160. The coefficient on the tiering dummy in the combined regression is equal to [redacted] and is significant at the one-percent level.

[redacted].[161]

89. Finally, because of Cablevision's discriminatory carriage of GSN, the network also is restrained in its ability to compete effectively for viewers; cable programming is an "experience good"[162] that can best be learned about while surfing the channels. It is impossible to gain that experience if a network is available only on a sports tier, to which a consumer must affirmatively subscribe. In contrast, Cablevision subscribers can gain experience with WE tv casually, as that network is available to them without the need to subscribe to a sports tier.

90. This discussion is not mean to suggest that all coverage gaps are debilitating to an independent network, as that is the wrong benchmark. As Judge Sippel explained in his recent decision:

> [I]t is not necessary for a network to show that its very survival is imperiled in order to satisfy its burden of showing that an MVPD's actions favoring affiliated networks had unreasonably restrained its ability to compete fairly.[163]

Thus, the relevant benchmark is GSN's performance in a world without the challenged conduct; here, it is clear that GSN has been impaired due to significant subscriber losses in New York and based on a broader negative impact on its performance in terms of advertising revenues.[164]

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161. Based on Feb. 21, 2013 conversation with Donna Vecchio and Marla Donna, directors of advertising pricing and planning at GSN.

162. The idea of "experience goods" dates back to a 1970 paper showing that it was more difficult to determine utility associated with quality than with price and that certain goods must be used before such a determination can be made. *See* Philip Nelson, "Information and Consumer Behavior," 78 *J. Pol. Econ.* 311 (1970). Since then, experience goods have been formalized to be goods for which consumers do not know their preferences before consumption. This concept has been applied to a variety of industries, most notably retail goods including electronics, appliances, clothing, food, and toys. *See* Yeon-Koo Che, "Customer Return Policies for Experience Goods," 44 *J. Ind. Econ.* 17, 18 (1996); Douglas Gale & Robert Rosenthal, "Price and Quality Cycles for Experience Goods," 25 *Rand J. Econ.* 590 (1994); Carl Shapiro, "Optimal Pricing of Experience Goods," 14 *Bell J. Econ.*, 497 (1983).

163. *Tennis Channel Initial Decision* ¶92.

164. Mr. Orszag mischaracterizes my prior testimony in NFL. I never testified that that a firm must be foreclosed from 20 percent of a market for an action to be "presumptively anticompetitive." Rather, I was reciting the relevant foreclosure thresholds from the antitrust literature, which are more rigorous than the thresholds needed

CONCLUSION

91. Based on the data I have reviewed to date, I conclude that Cablevision's refusal to carry GSN on a highly penetrated tier on Cablevision's cable systems likely constitutes discrimination based on affiliation. I also conclude that Cablevision's conduct has impaired GSN's ability to compete vis-à-vis Cablevision's affiliated, women's programming networks for programming, advertisers, viewers, and multi-channel video programming distributors.

* * *

I declare under penalty of perjury that, to the best of my knowledge and belief, the foregoing is true and correct. Executed on March 12, 2013.

Hal J. Singer

to show competitor harm. That those higher thresholds for consumer harm were met in NFL and are not met here is irrelevant. Similarly, Mr. Orszag claims that a "fair reading" of my Tennis Channel testimony implies that networks with more than 40 million subscribers are immunized from harm. I said no such thing. Rather, I noted that dropping below 40 million subscribers (from a tiering episode) was more debilitating for a network, all things equal. It might be the case that losing access to customers in the coveted New York market with a subscriber base of less than 40 million is more debilitating than losing access to those customers with a subscribership base of more than 40 million. But that does not imply that GSN suffered no impairment.

EXHIBIT 20

Highly Confidential Exhibit Withheld

EXHIBIT 21

Highly Confidential Exhibit Withheld

EXHIBIT 22

Highly Confidential Exhibit Withheld

EXHIBIT 23

Highly Confidential Exhibit Withheld

EXHIBIT 24

Highly Confidential Exhibit Withheld

EXHIBIT 25

UNITED STATES SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 10-K

(Mark One)

☒ ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended December 31, 2014

OR

☐ TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934 [NO FEE REQUIRED]

For the transition period from ________ to ________

Commission File Number	Registrant; State of Incorporation; Address and Telephone Number	IRS Employer-Identification No.
1-14764	**Cablevision Systems Corporation** Delaware 1111 Stewart Avenue Bethpage, NY 11714 (516) 803-2300	11-3415180
1-9046	**CSC Holdings, LLC** Delaware 1111 Stewart Avenue Bethpage, NY 11714 (516) 803-2300	27-0726696

Securities registered pursuant to Section 12(b) of the Act: Title of each class:	Name of each Exchange on which Registered:
Cablevision Systems Corporation	
Cablevision NY Group Class A Common Stock	New York Stock Exchange
CSC Holdings, LLC	None

Securities registered pursuant to Section 12(g) of the Act:

Cablevision Systems Corporation	None
CSC Holdings, LLC	None

Indicate by check mark if the Registrants are well-known seasoned issuers, as defined in Rule 405 of the Securities Act.

Cablevision Systems Corporation	Yes	☒	No	☐
CSC Holdings, LLC	Yes	☐	No	☒

Indicate by check mark if the Registrants are not required to file reports pursuant to Section 13 or Section 15(d) of the Act.

Cablevision Systems Corporation	Yes	☐	No	☒
CSC Holdings, LLC	Yes	☐	No	☒

PART I

Item 1. Business

This combined Annual Report on Form 10-K is separately filed by Cablevision Systems Corporation ("Cablevision") and CSC Holdings, LLC ("CSC Holdings" and collectively with Cablevision, the "Company" or the "Registrants").

Cablevision Systems Corporation

Cablevision is a Delaware corporation which was organized in 1997. Cablevision owns all of the outstanding membership interests in CSC Holdings and its liabilities include approximately $2.8 billion of senior notes which amount does not include approximately $611 million of its senior notes held by Newsday Holdings LLC ("Newsday Holdings"), its 97.2% owned subsidiary. The $611 million of notes are eliminated in Cablevision's consolidated financial statements and are shown as notes due from Cablevision in total member's deficiency of CSC Holdings. Cablevision has no operations independent of its CSC Holdings subsidiary.

CSC Holdings

CSC Holdings is one of the largest cable operators in the United States based on the number of video customers. As of December 31, 2014, we served approximately 2.7 million video customers in and around the New York metropolitan area. We believe that our cable systems (also referred to as our broadband network) in the New York metropolitan area comprise the largest metropolitan cluster of cable systems under common ownership in the United States (measured by number of video customers). We also provide high-speed data (also referred to as high-speed Internet access) and Voice over Internet Protocol ("VoIP") services using our broadband network. Through Cablevision Lightpath, Inc. ("Lightpath"), our wholly-owned subsidiary, we provide Ethernet-based data, Internet, voice and video transport and managed services, to the business market in the New York metropolitan area. In addition, through Newsday Holdings, we own approximately 97.2% of Newsday LLC ("Newsday") which operates a newspaper publishing business. We also own a cable television advertising sales business and regional news programming services businesses.

We classify our operations into three reportable segments: (1) Cable, consisting principally of our video, high-speed data, and VoIP services; (2) Lightpath; and (3) Other, consisting principally of (i) Newsday, which includes the Newsday daily newspaper, amNew York, Star Community Publishing Group, and online websites, (ii) the News 12 Networks, which provide regional news programming services, (iii) Cablevision Media Sales Corporation ("Cablevision Media Sales"), a cable television advertising company, and (iv) certain other businesses and unallocated corporate costs. Refer to Note 17 to our consolidated financial statements included in this Annual Report on Form 10-K for financial information about our segments.

On June 27, 2013, we completed the sale of substantially all of our Clearview Cinemas' theaters ("Clearview Cinemas") pursuant to an asset purchase agreement entered into in April 2013 (the "Clearview Sale"). On July 1, 2013, we completed the sale of our Bresnan Broadband Holdings, LLC subsidiary ("Bresnan Cable") pursuant to a purchase agreement entered into in February 2013 (the "Bresnan Sale"). For additional information concerning the Clearview Sale and the Bresnan Sale, see "Item 8. Financial Statements and Supplementary Data".

Effective as of the closing dates of the Clearview Sale and the Bresnan Sale, the Company no longer consolidates the financial results of Clearview Cinemas and Bresnan Cable. Accordingly, the historical financial results of Clearview Cinemas and Bresnan Cable have been reflected in the Company's consolidated financial statements as discontinued operations for all periods presented.

Cable

General

Cable television is a service that delivers multiple channels of video programming to subscribers who pay a monthly fee for the services they receive. Video signals are received over-the-air, by fiber optic transport or via satellite delivery by antennas, microwave relay stations and satellite earth stations and are modulated, amplified and distributed over a network of coaxial and fiber optic cable to the subscribers' television.

Cable television systems typically are constructed and operated pursuant to non-exclusive franchises awarded by local and state governmental authorities for specified periods of time.

Our cable television systems offer varying packages of video service. Our video service is marketed under the "Optimum" brand name. Our video services may include, among other programming, local broadcast network affiliates and independent television stations, certain other news, information, sports and entertainment channels such as CNN, AMC, CNBC, ESPN, MTV, The NFL Network and regional sports networks such as MSG Network, and certain premium services such as HBO, Showtime, The Movie pre-tax gain of approximately $5.8 million relating primarily to the settlement of a contingency related to Montana property taxes associated with Bresnan Cable.

Clearview Cinemas

On June 27, 2013, the Company completed the sale of substantially all of its Clearview Cinemas' theaters pursuant to the asset purchase agreement entered into in April 2013. The Company recognized a pretax loss in connection with the Clearview Sale of approximately $19.3 million.

Competition

Cable

Our cable systems operate in an intensely competitive environment, competing with a variety of video, data and voice providers and delivery systems, including telephone companies, wireless data and voice providers, satellite-delivered video signals, Internet-delivered video content, and broadcast television signals available to homes within our market by over-the-air reception.

Telephone Companies. We face competition from two telephone companies. Verizon Communications, Inc. ("Verizon") and Frontier Communications Corp. ("Frontier") (who recently acquired AT&T Inc.'s ("AT&T") Connecticut operation) offer video programming in addition to their high-speed data and VoIP services to residential and business customers in our service area. The attractive demographics of our service territory make this region a desirable location for investment in distribution technologies by these companies.

We face intense competition from Verizon who has constructed a fiber to the home network plant that passes a significant number of households in our service area. Verizon does not publicly report the extent of their build-out or penetration by area. Our estimate of Verizon's build out and sales activity in our service area is difficult to assess because it is based upon visual inspections and other limited estimating techniques, and therefore serves only as an approximation. We estimate that Verizon is currently able to sell a fiber-based video service, as well as high-speed data and VoIP services, to at least half of the households in our service area. In certain other portions of our service area, Verizon has also built its fiber network where we believe it is not currently able to sell its fiber-based video service, but is able to sell its high-speed data and VoIP services. In these areas (as well as other parts of our service area) Verizon markets direct broadcast satellite ("DBS") services along with its high-speed data and VoIP services. Verizon's fiber network also passes areas where we believe it is not currently able to sell its video, high-speed data or VoIP services. Accordingly, Verizon may increase the number of customers in our service area to whom it is able to sell video, high speed data and VoIP services in the future.

Frontier offers video service, as well as high-speed data and VoIP services, in competition with us in most of our Connecticut service area. Frontier also markets DBS services in this service area. Verizon and Frontier have made and may continue to make promotional offers at prices lower than ours. Verizon has significantly greater financial resources than we do.

This competition affects our ability to add or retain customers and creates pressure upon the pricing of our services. Competition, particularly from Verizon, has negatively impacted our revenues and caused subscriber declines in our service areas. To the extent Verizon and Frontier continue to offer competitive and promotional packages, our ability to maintain or increase our existing customers and revenue will continue to be negatively impacted. See "Regulation" for a discussion of regulatory and legislative issues.

DBS. We also face competition from DBS service providers in our service area. The two major DBS services, DISH Network and DIRECTV, are available to the vast majority of our customers. These companies each offer video programming that is substantially similar to the video service that we offer, at competitive prices. Our ability to compete with these DBS services is affected by the quality and quantity of programming available to us and to them. DIRECTV has exclusive arrangements with the National Football League that gives it access to programming that we cannot offer. Each of these competitors has significantly greater financial resources than we do. See "Regulation" for a discussion of regulatory and legislative issues. DBS providers have tested the use of certain spectrum to offer satellite-based high-speed data services.

We compete in our service areas with DISH Network and DIRECTV by "bundling" our service offerings with products that these companies cannot efficiently provide at this time, such as high-speed data, voice service and interactive services carried over the cable distribution plant.

Other Competitors and Video Programming Sources. Another source of competition for our Cable segment is the delivery of video content over the Internet directly to subscribers. This competition comes from a number of different sources, including companies that deliver movies, television shows and other video programming over broadband Internet connections, such as Netflix, Google

Inc.'s "YouTube" and Amazon.com, Inc.'s "Instant Video". Recently, Verizon announced a mobile video delivery service and DISH Network introduced a product offering Internet delivery of a number of cable networks. Increasingly, content owners are utilizing Internet-based delivery of content directly to consumers, some without charging a fee for access to the content. Furthermore, due to consumer electronics innovations, consumers are able to watch such Internet-delivered content on television sets and mobile devices. The availability of these services has and will continue to adversely affect customer demand for our video services, including premium and on-demand services. Our video service also faces competition from broadcast television stations, entities that make digital video recorded movies and programs available for home rental or sale, satellite master antenna television ("SMATV") systems, which generally serve large multiple dwelling units under an agreement with the landlord and service providers, and "open video system" ("OVS") operators. There can be no assurance that these or other existing, proposed, or as yet undeveloped technologies will not become dominant in the future and render our video service offering less profitable or even obsolete.

Internet access services are also offered by providers of wireless services, including traditional cellular phone carriers and others focused solely on wireless data services. The Federal Communications Commission ("FCC") is likely to continue to make additional radio spectrum available for these wireless Internet access services.

Our VoIP service also faces competition from other competitive providers of voice services, including wireless voice providers, as well as VoIP providers like Vonage that do not own networks but can provide service to any person with a broadband connection.

Lightpath

Lightpath operates as a CLEC in a highly competitive business telecommunications market and competes against the very largest telecommunications companies - including ILECs, other CLECs, and long distance voice service companies. More specifically, Lightpath faces substantial competition from Verizon, AT&T and Frontier which are the dominant providers of local telephone and broadband services in their respective service areas. ILECs have significant advantages over Lightpath, including greater capital resources, an existing fully operational local network, and long standing relationships with customers.

While Lightpath competes with the ILECs, it also enters into interconnection agreements with ILECs so that its customers can make and receive calls to and from customers served by the ILECs and other telecommunications providers. Federal and state law and regulations require ILECs to enter into such agreements and provide facilities and services necessary for connection, at prices subject to regulation. The specific price, terms and conditions of each agreement, however, depend on the outcome of negotiations between Lightpath and each ILEC. Interconnection agreements are also subject to approval by the state regulatory commissions, which may arbitrate negotiation impasses. Lightpath has entered into interconnection agreements with Verizon for New York, New Jersey, and portions of Connecticut, and with Frontier for portions of Connecticut, which have been approved by the respective state commissions. Lightpath also has entered into interconnection agreements with other ILECs in New York and New Jersey. These agreements, like all interconnection agreements, are for limited terms and upon expiration are subject to renegotiation, potential arbitration, and approval under the laws in effect at that time.

Lightpath also faces competition from one or more competitive access providers and other new entrants in the local telecommunications and data marketplace. In addition to ILECs and other CLECs, potential competitors capable of offering voice or broadband services include electric utilities, long distance carriers, microwave carriers, wireless system operators (operating both mobile and fixed networks), VoIP service providers, and private networks built by large end users. A continuing trend toward business combinations and alliances in the telecommunications industry may create stronger competition for Lightpath.

Newsday

Newsday operates in a highly competitive market, which may adversely affect advertising and circulation revenues. Newsday faces significant competition for advertising revenue from a variety of media sources, including other newspapers that reach a similar audience, magazines, shopping guides, yellow pages, websites, mobile-device platforms, broadcast and cable television, radio, and direct marketing; particularly if those media sources provide advertising services that could substitute for those provided by Newsday within the same geographic area. Specialized websites for real estate, automobile and help wanted advertising have become increasingly competitive with our newspapers and websites for classified advertising and further development of additional targeted websites is likely.

The newspaper industry generally has experienced significant declines in circulation and readership levels continue to be adversely affected by competition from new media news formats and less reliance on newspapers by some consumers. Readership and circulation levels, as well as economic conditions and the existence of other advertising outlets, impact the demand for and level of advertising. These factors will continue to negatively impact Newsday's revenues.

EXHIBIT 26

GSN Exh. 133

UNITED STATES SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 10-K

(Mark One)

☒ ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
For the fiscal year ended December 31, 2010

OR

☐ TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934 [NO FEE REQUIRED]
For the transition period from _______ to _______

Commission File Number	Registrant; State of Incorporation; Address and Telephone Number	IRS Employer Identification No.
1-14764	**Cablevision Systems Corporation** Delaware 1111 Stewart Avenue Bethpage, NY 11714 (516) 803-2300	11-3415180
1-9046	**CSC Holdings, LLC** Delaware 1111 Stewart Avenue Bethpage, NY 11714 (516) 803-2300	27-0726696

Securities registered pursuant to Section 12(b) of the Act: Title of each class:	Name of each Exchange on which Registered:
Cablevision Systems Corporation Cablevision NY Group Class A Common Stock	New York Stock Exchange
CSC Holdings, LLC	None

Securities registered pursuant to Section 12(g) of the Act:

Cablevision Systems Corporation	None
CSC Holdings, LLC	None

Indicate by check mark if the Registrants are well-known seasoned issuers, as defined in Rule 405 of the Securities Act.

Cablevision Systems Corporation	Yes ☒	No ☐
CSC Holdings, LLC	Yes ☐	No ☒

Indicate by check mark if the Registrants are not required to file reports pursuant to Section 13 or Section 15(d) of the Act.

Cablevision Systems Corporation	Yes ☐	No ☒
CSC Holdings, LLC	Yes ☐	No ☒

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PART I

Item 1. Business

This combined Annual Report on Form 10-K is separately filed by Cablevision Systems Corporation ("Cablevision") and CSC Holdings, LLC, formerly CSC Holdings, Inc. ("CSC Holdings" and collectively with Cablevision, the "Company" or the "Registrants").

Cablevision Systems Corporation

Cablevision is a Delaware corporation which was organized in 1997. Cablevision owns all of the outstanding membership interests in CSC Holdings and its liabilities include approximately $2.2 billion of senior notes which amount does not include approximately $754 million of its senior notes held by Newsday Holdings LLC, its 97.2% owned subsidiary. The $754 million of notes are eliminated in Cablevision's consolidated financial statements and are shown as notes due from Cablevision in the consolidated deficiency of CSC Holdings. Cablevision has no operations independent of its CSC Holdings subsidiary.

CSC Holdings

CSC Holdings is one of the largest cable operators in the United States based on the number of basic video subscribers. We also operate cable programming networks, entertainment businesses, telecommunications companies and a newspaper publishing business. As of December 31, 2010, we served approximately 3 million basic video subscribers in and around the New York metropolitan area and approximately 300,000 basic video subscribers in Montana, Wyoming, Colorado and Utah, acquired in December 2010 (see discussion of the Bresnan Cable acquisition below), making us the fifth largest cable operator in the United States based on the number of basic video subscribers. We believe that our cable television systems comprise the largest metropolitan cluster of cable television systems under common ownership in the United States (measured by number of basic video subscribers). Through our wholly-owned subsidiary, Rainbow Media Holdings LLC ("Rainbow Media Holdings"), we have ownership interests in national and international programming networks. As discussed below, we are currently moving forward with the proposed spin-off of Rainbow Media Holdings. Through Cablevision Lightpath, Inc. ("Optimum Lightpath"), our wholly-owned subsidiary, we provide telephone services and high-speed Internet access to the business market. In addition, we own approximately 97.2% of Newsday LLC which operates a newspaper publishing business. We also own regional news and high school sports programming services, a motion picture theater business and a cable television advertising sales business.

We classify our operations into three segments: Telecommunications Services; Rainbow; and Other. Our Telecommunications Services segment includes our cable television business, including its video, high-speed data, and Voice over Internet Protocol ("VoIP") operations and the operations of the commercial high-speed data and voice services provided by Optimum Lightpath. It also includes the operations of Bresnan Cable which was acquired in December 2010 (see discussion below). Our Rainbow segment consists principally of our interests in national programming networks, including AMC, WE tv, IFC, and Sundance Channel, and IFC Entertainment. Our Other segment includes the operations of (i) Newsday, which includes the Newsday daily newspaper, amNew York, Star Community Publishing Group, and online websites including newsday.com and exploreLI.com., (ii) our motion picture theater business ("Clearview Cinemas"), (iii) the News 12 Networks, our regional news programming services, (iv) the MSG Varsity network, our network dedicated entirely to showcasing high school sports and activities, (v) our cable television advertising company, Rainbow Advertising Sales Corporation ("RASCO"), and (vi) certain other businesses and unallocated corporate costs.

EXHIBIT 27

Highly Confidential Exhibit Withheld

EXHIBIT 28

The New York Times | http://nyti.ms/Yb7oFu

MEDIA

GSN Considers Adding Church-Based Dating Show

By STUART ELLIOTT APRIL 9, 2013

Spurred by the success of an original game show that rewards knowledge of the Bible rather than, say, how much grocery items cost at the supermarket checkout, the GSN cable channel is considering a dating show with a religious twist: congregations will seek suitable mates for single parishioners.

At an "upfront" breakfast in Midtown Manhattan on Tuesday morning, GSN outlined its plans for the 2013-14 television season, a season that is being reshaped by the popularity of "The American Bible Challenge," which was introduced during the 2012-13 season and is already back for a second go-round.

Still, GSN executives told reporters they were not planning on creating a channel dominated by faith-based programming. The network, they said, will continue to offer viewers secular shows like "Baggage"; "Family Feud," in a new iteration with Steve Harvey as the host; "Minute to Win It," which will have its debut on June 25 with original episodes and a new host, the Olympian Apolo Anton Ohno; and "The Newlywed Game," also in a new iteration, with Sherri Shepherd as the host.

"We still need to be a broad-based channel," said Amy Introcaso-Davis, executive vice president for programming and development at GSN.

Even so, the success of "The American Bible Challenge," hosted by Jeff Foxworthy, is hard to ignore.

"Literally, it put us ahead of the game in the year's most talked-about programming trend," Ms. Introcaso-Davis said, referring to the renewed interest among viewers in programming with religious themes like "The Bible," the miniseries on the History Channel.

"The American Bible Challenge" is the most-watched series in GSN's history, Ms. Introcaso-Davis said, and "in general, it doubles" the ratings "of anything we've ever done."

The increased viewership for the Bible game show, along with more conventional shows like "Family Feud," helped GSN's ratings grow among adults ages 18 to 49 as well as adults ages 25 to 54.

And GSN is enjoying "much greater interest from the advertising community," said John Zaccario, executive vice president for advertising sales, adding that he and his colleagues had "signed over 100 new advertisers."

The proposed dating show with a religious setting, called "It Takes a Church," will ask congregations, pastors, friends and family to find a suitable potential mate for a parishioner who is single. Plans call for hourlong episodes if it becomes a series.

The show is a contemporary version of how "the ladies of the church are always trying to fix up the few single" parishioners, Ms. Introcaso-Davis said, and would be "aimed specifically at that new audience" that has been brought to GSN by "The American Bible Challenge."

"It Takes a Church" is one of six original series in development at GSN, which, like most cable channels, is trying to significantly increase the amount of original programming on its schedule to woo additional viewers and advertisers.

The other series being considered by GSN include:

¶ Another dating show, "Where Have You Been All My Life," which asks a contestant to evaluate three potential suitors based on information about their pasts, using sources like photographs and video clips.

¶ "Dance Rivals," about two dance studios in Orem, Utah, that compete fiercely against each other, which includes as an executive producer Derek Hough, a professional dancer in the cast of "Dancing With the Stars" on ABC.

("Dance Rivals" is in the vein of the handful of reality series that GSN schedules, which executives refer to as "real-life games.")

¶ "The Imposter," which asks two contestants to live with a family for 48 hours and figure out which family member is a fake, planted by the producers. The contestant who identifies the imposter wins $25,000; if the imposter is not found, the family wins the cash.

GSN is ordering two game shows as series. One is the new version of "Minute to Win It" with Mr. Ohno; GSN showed reruns of episodes of the original version, hosted by Guy Fieri, after they appeared on NBC.

The other show being ordered by GSN is "The Chase," based on a popular British quiz show that pits four contestants against a cast member known as the Beast — a know-it-all who seeks to answer questions faster and more accurately than the contestants can.

GSN is ordering eight hourlong episodes of "The Chase," which will make its American debut later this year.

GSN is the most recent in a roster of cable channels that have made or are planning to make their 2013-14 upfront presentations, so called because the events take place before the start of the coming TV season.

The lengthy schedule of presentations is to conclude during the week of May 13 when the big broadcast networks, along with Spanish-language networks and channels, make their presentations.

EXHIBIT 29

4/10/13 SNL Kagan Media & Comm. Rep. (Pg. Unavail. Online)
2013 WLNR 9270928

SNL Kagan Media & Communications Report

April 10, 2013

Section: Conference Chatter

GSN taps into emerging trend of faith-based programming

Deborah Yao

"The American Bible Challenge" was heaven-sent for GSN.

The game show network and games platform said it has tapped into a "significant" trend: faith-based programming.Introduced in the 2012-2013 TV season, "The American Bible Challenge," hosted by Jeff Foxworthy, has become one of the biggest hits in the network's history and will be returning for a second season, executives said.Its success has spawned more faith-based content, specifically a dating show called "It Takes a Church," which is in development.

Other firsts at GSN in the past year include syndication of its first original show, "Baggage," through NBCUniversal Media LLC's Domestic Television Distribution.Hosted by Jerry Springer, the show features three contestants who have to disclose their "baggage" as they vie for a date.

GSN, a joint venture between DIRECTV and Sony Pictures Entertainment, also added 106 new advertisers last year, and recorded double-digit increases in ratings and revenue.In the first quarter, GSN's double-digit ratings gains have continued in prime time and late night.

"It was our best year ever," said GSN CEO David Goldhill at an upfront breakfast on the 35th floor of Sony's headquarters in Manhattan.

GSN has revived some classic game shows, such as "Family Feud" hosted by Steve Harvey, which is the network's top-rated show in prime time. "Minute to Win It," hosted by Olympic speed skater Apolo Ohno, is premiering June 25.GSN also ordered eight episodes of "The Chase," a U.K. game show import that pits four contestants against a quiz genius.

Other shows in development include "Dance Rivals," a dance-off between two competing dance studios, the owners of which were former partners who split.In "Mind of a Man," two female contestants try to figure out what men really think about dating, marriage and other subjects. "The Imposter" puts two contestants in another family's home for 48 hours where they have to spot the fake relative.

In the age of social media where old, embarrassing photos can surface, a dating game was developed called "Where Have You Been All My Life."A contestant will choose a date based on old photos and videos of suitors.

---- **Index References** ----

Company: SONY PICTURES ENTERTAINMENT INC; DIRECTV; CHASE CORP; NBCUNIVERSAL MEDIA LLC

Industry: (PC, Video & Online Games (1PC44); Consumer Video Products (1CO02); Software (1SO30); Electronics (1EL16); I.T. (1IT96); Consumer Electronics (1CO61); Home, Personal & Consumer Software (1HO01); Games Software (1GA28); Software Products (1SO56); Dance (1DA68); Application Software (1AP32); TV (1TV19); TV Programming (1TV26); Entertainment (1EN08); Consumer Products & Services (1CO62))

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NewsRoom

EXHIBIT 30

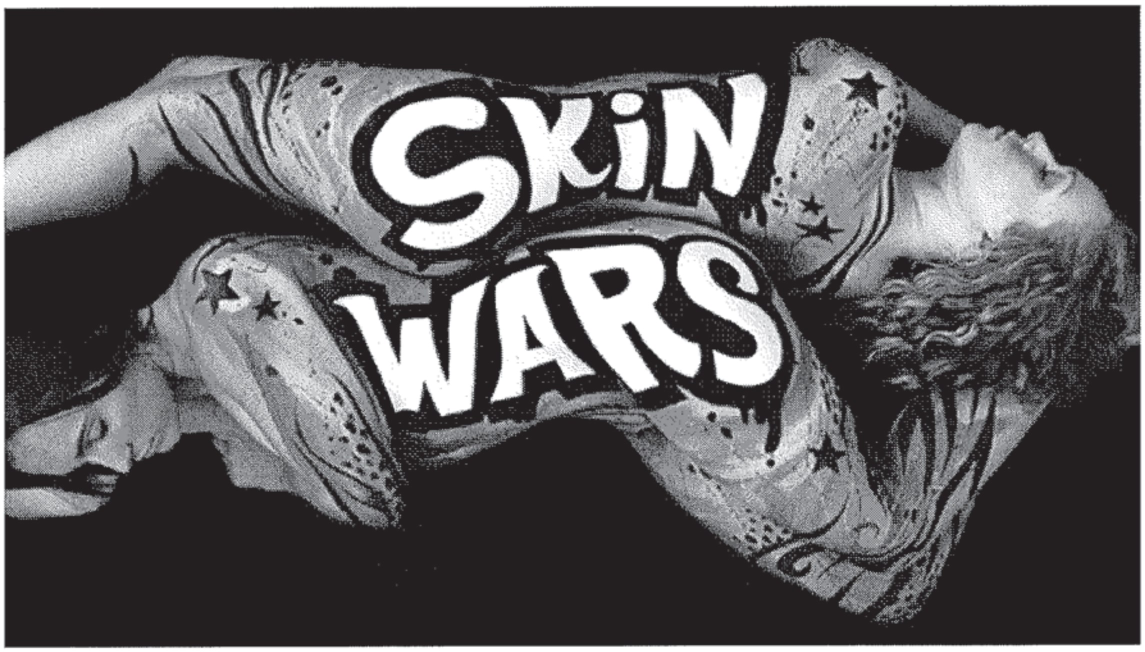
ADWEEK

GSN Greenlights 4 New Series as Advertiser List Grows

Network hints at online originals at its Upfront

By Michelle Castillo

March 18, 2014, 3:07 PM EDT



Rebecca Rominjn's new show on GSN, Skin Wars.

Game Show Network (GSN) is evidently crushing it with advertisers, so it has greenlit four new series for this year with the goal of further increasing female viewership.

For instance, there's Idiot Test, a brainteaser game show revealed by the company today that's hosted by comedian Ben Gleib. It joins It Takes a Church, a matchmaking series the network dubbed the "anti-Bachelor," and a show called Skin Wars that's hosted by Rebecca Rominjn—a competition-style show that will pit 10 bodypainters against each other for a cash prize. And Mind of a Man recently debuted as a game show where female contestants probe the male psyche.

John Zaccario, GSN's evp of sales, said that his company added roughly 70 advertisers in 2013 but didn't name brands. Last year, he said the cable channel grew its key demo, women aged 25 to 54, by 38 percent during the day and 47 percent at primetime. The network, which is a partnership between DirecTV and Sony Pictures Television, is now available in 80 million homes.

"We've added new formats to some of the categories that matter most to contemporary audiences—comedy, relationships, technology and faith," Zaccario said, appearing at GSN's Upfront 2014 in New York on Tuesday. "We've evolved the notion of game to involve new users, and I'm very happy to say it's working."

In addition, the network has ordered pilots for shows called App Wars and Say What? (Interestingly, the latter is based off the childhood game Telephone.) Four other series are in development as well, including one called The Line that's about—what else?—waiting in line. And popular series The American Bible Challenge and The Chase will return.

GSN also shared that it has been experimenting with online video over the past few months. David Goldhill, chief exec of the Santa Monica, Calif.-based company, remained mum on the details, but told Adweek that the digital format was a way to unearth talent and concepts.

"I'd like to think we have a pretty good understanding of game entertainment—how that translates into video is the next stage of evolution," he said.

EXHIBIT 31

Highly Confidential Exhibit Withheld

EXHIBIT 32

Highly Confidential Exhibit Withheld

EXHIBIT 33

Latest Releases

April 09, 2013

GSN GREENLIGHTS TWO NEW SERIES AND UNVEILS ROBUST DEVELOPMENT SLATE DURING NEW YORK CITY UPFRONT PRESENTATION

2012 Marks Double Digit Growth in Target Demos Women 18-49 and Women 25-54;
GSN Adds 106 New Advertisers Representing A Double Digit Increase In Ad Revenue in 2012;
Highest 1st Quarter Ad Sales Prime Delivery in Network History

GSN's Digital Arm Remains Strong With Two Million Visits Per Day for GSN Online Games

April 9, 2013 (New York, NY) —At an upfront presentation held this morning at New York City's Sony Club, GSN announced plans to greenlight two new series and unveiled an impressive development slate representing GSN's ongoing commitment to originals. The network also added 106 new advertisers to its already impressive list of partners and revealed that in combination with GSN's digital arm, the powerful brand now reaches a whopping 100 million consumers annually. The details were announced today by GSN's President and CEO, David Goldhill; GSN's Executive Vice President of Programming and Development, Amy Introcaso-Davis; and John Zaccario, GSN's Executive Vice President of Advertising Sales.

"The GSN brand is more powerful than ever and as a result, we are gaining momentum in all metrics," said David Goldhill, GSN's President and CEO. "Due to our ongoing commitment to originals, we continue to break ratings records, deliver engaged audiences and in turn, provide unique opportunities for advertisers to reach their coveted target demos in an environment that promises to deliver the results they seek." He added: "The combination of our digital platform and our linear channel, reaching 100 million people annually, provides our advertisers with unduplicated results that make GSN one of the most attractive buys available in the market today."

In the past year, GSN has experienced enormous growth, with double digit increases year to year in both ratings and ad revenue. With new additions to its programming lineup, the network continues to hit high marks with shows like **FAMILY FEUD**, hosted by daytime's breakout star Steve Harvey, which fueled gains with target demos including W18-49 and W25-54. Season to date, GSN has seen double digit growth in Ad Sales Prime up 31% with P25-54 and 33% with W25-54, based on recently released Nielsen data. Currently, **FAMILY FEUD** is the #1 prime program on GSN averaging nearly half a million total viewers per episode. GSN also gained momentum in Q1 up 40% with P25-54 and 38% with W25-54 during the ad sales time period from 7P to midnight. In addition, GSN generated a marked improvement in late night during Q1, up 83% with P18-49 viewers and up an impressive 93% with W18-49. GSN now boasts 364,000 viewers in the Ad Sales Prime, the highest 1st quarter in the history of the network.

GSN's decision to invest early in what has turned out to be a significant trend for faith-based programming paid off handsomely with the record-setting launch of **THE AMERICAN BIBLE CHALLENGE**, hosted by Jeff Foxworthy. Currently in its second season, the studio-based game in which contestants compete based on their knowledge of the Bible, consistently delivers in prime and is one of GSN's highest rated series. In other 2012 programming news, GSN sold its first original, **BAGGAGE** into syndication through NBC Universal Domestic Television Distribution. The series, cleared in 95% of the country, is hosted by Jerry Springer and features three contestants vying for a date who have to divulge their "baggage." Today, GSN also announced a June 25thpremiere date for its newly greenlit series, **MINUTE TO WIN IT**, hosted by Olympian Apolo Anton Ohno; and the network also ordered eight episodes of **THE CHASE**, a new quiz show based on the hit UK series of the same name.
John Zaccario, GSN's Executive Vice President, Advertising Sales, added: "The viewing behaviors of GSN's audience result in a valuable environment for our advertisers. Our audience is highly engaged in a participatory and active viewing experience and embrace brands within the commercial pods and woven into our content. They are prolific consumers of our advertisers' goods and services."

"This has been a truly rewarding year," GSN's Executive Vice President of Programming and Development, Amy Introcaso-Davis said. "Our viewers are passionate about our content and we have used the last year to really deliver the kind of programming that makes people lean in and participate in a way that's palpable and meaningful in terms of their viewing experience."

MAGID RESEARCH

During the upfront, GSN presented data it commissioned through Frank Magid & Associates based on a sample of over 1500 respondents between the ages of 18-64 who watch the network. The study evaluated the consumer behaviors and attitudes of the GSN viewer and underscored the quality of the network's audience, with 29% of GSN viewers ages 18-34. The study indicated that GSN is primarily watched live with 74% paying attention to advertisements on its air and 38% taking action once they had viewed the network's pod-based spots.

The study also revealed that GSN's audience is highly engaged with the average viewer spending over 11 hours a week watching the network and 90% typically watching for more than 15 minutes at a time. According to Nielsen's Length of Tune Ranker, GSN (Source: Nielsen Npower) ranked #17 among 103 networks for P2+ and with W18–49, the network moved up the chart to #14.

PROGRAMMING

GREENLIT ORIGINAL SERIES

MINUTE TO WIN IT
This all new, GSN original version of the classic show will be hosted by Speed Skating Champion Apolo Anton Ohno. Each one-hour episode of **MINUTE TO WIN IT** features competitors facing up to 10 challenges that escalate in level of difficulty using everyday household items. Each game has a one-minute time limit and failure to finish the task on time may ultimately eliminate the contestant. At various points throughout the game, the competitor can walk away with the money earned up to that point - but it'll take nerves of steel to complete all 10 tasks to win the grand prize of $250,000. **The episodes are produced by Shine America - based on the format owned by Shine's sister company Friday TV. Michael Binkow (Baggage, 1 vs. 100) serves as Executive Producer.** (40 x :60)

THE CHASE
You can run, but you cannot hide, The Beast is always coming after you. In **THE CHASE,** a team of three contestants attempts to amass as much money as possible by answering quick-fire questions in a 60-second round. The money earned will go towards a team bank. Why the urgency? Because The Beast is always lurking, ready to pounce. The Beast – quite simply -- is a quiz genius. The job of this intimidating presence is to catch each contestant by answering more questions than his opponents to ensure they are not able to bank their money. It's a role he executes with ruthless efficiency. In the final round, the team collectively plays against The Beast in an epic David vs. Goliath battle for the entire amount that they have banked. **THE CHASE is produced by ITV Studios America with Bob Boden (Don't Forget the Lyrics, Family Game Night, Greed) serving as Executive Producer.** (8 x :60)

ORIGINAL SERIES IN DEVELOPMENT

DANCE RIVALS
The hotbed of dancing in the United States can be found in an unlikely location. The population of Orem, Utah is only 84,000— yet one in 40 is a dancer. Several of Orem's dancers have gone on to win regional, national and world championships. But succeeding in Orem isn't easy. The city is home to two of the most elite dance studios in America, each owned by a fiercely competitive and hard-driving dance instructor. The studios are just a stone's throw from one another...and the owners used to be partners! Needless to say, the rivalry between the dance studios and their owners is as fierce as the competition among the dancers. Each week, the studios participate in dance competitions and each week they fight for 1st and 2nd positions—always with the ultimate goal of triumphing over the other. **DANCE RIVALS is produced by H2R Entertainment with Derek Hough, Christian Horner, Adam Rosenblatt and Jamie Rosenblatt serving as Executive Producers.**

IT TAKES A CHURCH
IT TAKES A CHURCH is a new one hour series where a church will go on a mission to find love for one lucky, single parishioner...without them knowing! Each week, we'll visit another church from across the country and surprise a single girl (or guy) with the news that she is about to be saved from the dating world. The congregation, Pastor, friends, and family will all contribute, but in the end our single will decide which suitor she is putting her faith in. The parishioner who brought the chosen suitor will win money for both themself and their charity. **IT TAKES A CHURCH is developed for GSN by Sean Kelly.**

MIND OF A MAN
What are men *really* thinking? In each episode of **MIND OF A MAN**, two female contestants will try to figure out what men really think about dating, marriage, working and all manner of manly pursuits. The questions on the show have all been previously asked and answered by a survey of 100 men. Over three rounds, the contestants will try to determine the correct answers with the help of a celebrity panel. A mix of famous and funny male and female celebrities will offer their opinions about what men are really thinking. And for successfully getting inside the mind of a man, one of the contestants could win up to $15,000. **MIND OF A MAN is produced by Never Nominated Productions Inc. with 51 Minds Entertainment's Mark Cronin serving as Executive Producer.**

THE IMPOSTER
Two contestants who have an existing relationship (i.e. friends, siblings, husband and wife) move into another family's home for 48 hours. They must observe the family's every move and judge their dynamics. The twist is that one of the family members is a fake. They have been embedded with the real family in order to fool the contestants. The family and the imposter will create diversions and cast doubts over everyone's authenticity in order to keep houseguests from uncovering the TRUTH. If the houseguests correctly identify the imposter, they win $25,000. But if the family has deceived the houseguests into choosing incorrectly, the *family* wins the cash. **THE IMPOSTER** is a battle of observation and deduction vs. cunning and guile. **THE IMPOSTER is produced by Leopard Films USA with Hayma "Screech" Washington serving as Executive Producer.**

WHERE HAVE YOU BEEN ALL MY LIFE
We've all gone through many stages in our lives, some more awkward than others. **WHERE HAVE YOU BEEN ALL MY LIFE**, hosted by Brooke Burns, is a new dating show that allows singles to watch a set of potential soul mates grow up before their very eyes. Each 30-minute episode will feature a new dater and three potential suitors. We will see and meet our dater, but the three potential suitors will be behind a scrim—neither the dater nor the viewers will have any idea what they look like. We will meet the suitors through photos and video footage from different

decades in their lives, and the dater will be able to ask them questions based only on that era. Two suitors will be eliminated; one will be chosen. Can you find love just by digging through someone's past? **WHERE HAVE YOU BEEN ALL MY LIFE is produced by Matt Westmore Media with Matt Westmore and Sean Kelly serving as Executive Producers.**

YOU DON'T KNOW WHAT YOU'RE MISSING
Caroline Rhea created **YOU DON'T KNOW WHAT YOU'RE MISSING**, a fun family game show that tests unsuspecting families on what they truly value. **YOU DON'T KNOW WHAT YOU'RE MISSING** features family members challenged to see who can remember 10 meaningful items regularly on display in their home. One family member will be chosen to race the clock and correctly identify which items are missing – every correct answer is worth cash, and the better the player does, the more additional prizes the player earns for their family. Once the clock expires, the family is reunited for a funny reveal of how the search went. The player can then buy back items that were not recognized as missing. And, while it's their decision, they will be influenced by the sentimental value and pleas of their family members. **YOU DON'T KNOW WHAT YOU'RE MISSING is produced by Travail D'Amour with Caroline Rhea serving as Executive Producer.**

CURRENT SERIES

THE AMERICAN BIBLE CHALLENGE
Comedian and author Jeff Foxworthy hosts **THE AMERICAN BIBLE CHALLENGE**, a lively studio-based game in which contestants compete based on their knowledge of the Bible. Utilizing current pop-culture as well as historical references, questions are drawn from the rich, dense narrative found in the world's best-selling book. The contestants share their compelling back-stories and each team plays for a charitable organization. Multiple Grammy Award® winner Kirk Franklin joins Season Two as musical co-host. **THE AMERICAN BIBLE CHALLENGE is produced by RelativityREAL for GSN, with RelativityREAL's Tom Forman ("Extreme Makeover: Home Edition") serving as Executive Producer on the project along with Janelle Fiorito ("Extra Virgin"). Nick Stuart and Maura Dunbar of Odyssey Networks are Consulting Producers. Odyssey Networks is the country's largest multi-faith coalition dedicated to producing and distributing media that creates understanding among people of different beliefs and perspectives. Jeff Foxworthy also serves as Producer. Embassy Row's Michael Davies as well as Parallel Entertainment's J.P. Williams and Jennifer Novak serve as Executive Producers.**

FAMILY TRADE
At G-Stone Motors, a state-of-the-art car dealership in Middlebury, Vermont, the saying is, "We'll take anything in trade." And they mean it. Don't have enough for a down payment? Founder Gardner Stone will trade you a beautiful new car or truck for anything you've got that he thinks he can sell—pigs, a hot air balloon, coffins, maple syrup, dolls, a shoe collection. But Stone's son Todd and daughter Darcy, who work with him in the business, have very different ideas about what makes a good trade, and they have the unenviable task of re-selling whatever their father has taken in trade. Each 30-minute episode features the outrageous, hilarious, hotly contested barter stories at G-Stone Motors—with a simmering stew of family drama cooking alongside. **FAMILY TRADE is produced by Eli Frankel's Rogue Atlas Productions in association with Lionsgate, with Frankel as Executive Producer.**

THE NEWLYWED GAME
THE NEWLYWED GAME, hosted by Sherri Shepherd, is GSN's modern installment of the classic series showcasing three newly married couples of wide-ranging backgrounds who face off in a series of question rounds. During each round, a spouse attempts to guess his or her mate's answer to questions about their relationship, ranging from the first time they met to the details of their love life. At the end of the game, the couple scoring the most points wins exciting prizes. **THE NEWLYWED GAME is produced by Michael Davies and his production company, Embassy Row, which is owned by Sony Pictures Television. In addition to GSN's "The Pyramid" and "Chain Reaction," Davies has brought audiences fan-favorite shows such as "Who Wants to Be a Millionaire," "Power of 10," Bravo's "Watch What Happens Live" and "Kathy," and Oxygen's "The Glee Project." Host Sherri Shepherd also serves as a producer for THE NEWLYWED GAME.**

FAMILY FEUD
Since its premiere in 1976, **FAMILY FEUD**, currently hosted by Steve Harvey, has remained one of television's most popular and enduring game shows, and continues to evolve in new and exciting ways. College tournaments, celebrity look-alikes and special theme weeks, along with TV's most revealing, surprising and fun survey results keep audiences tuning in each weekday. **FAMILY FEUD is produced by FremantleMedia North America and distributed by Debmar Mercury. Gaby Johnston is Executive Producer.**

GSN DIGITAL
GSN Digital continues to bolster the brand, becoming one of the largest online game publishers in the world with close to two million players visiting a GSN game platform each day. GSN Casino, the mobile app, was included on Apple's Best of 2012 list as a top grossing app for iPhone and iPad; it is also a top-downloaded and top-grossing app for Android. The Games by GSN app is the #1 multigame portal on Facebook.

GSN's programming and online games have been drivers of successful brand integrations with an engaging, positive environment that attracts a call to action audience. Impactful and turnkey elements offered include custom-short form content, co-branded interstitials, on-air stunts and digital/multi-screen extensions through custom games at **GSN.com**,**GSNTV.com** and mobile apps like The American Bible Challenge. For example, GSN's partnership with the Salvation Army for the first season of **THE AMERICAN BIBLE CHALLENGE** was anchored by customizable bumpers that encouraged viewers to download the app, and the network donated $1 to the Salvation Army for every download up to 10,000 users.

ABOUT GSN
GSN is a multimedia entertainment company that offers original and classic game programming and competitive entertainment via its 77-million subscriber television network and online game sites. GSN's cross-platform content gives game lovers the opportunity to win cash and prizes, whether through GSN's popular TV game shows or through GSN Digital's free casual games, mobile and social games, and cash competitions. GSN is distributed throughout the U.S., Caribbean and Canada by all major cable operators, satellite providers and telcos. GSN and its subsidiary, **WorldWinner.com**, Inc., are owned by Sony Pictures Entertainment and DIRECTV. For further information, please visit **GSNTV.com**.

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EXHIBIT 34

Latest Releases

January 10, 2014

GSN FINISHES 2013 AS ITS MOST WATCHED YEAR EVER

GSN FINISHES 2013 AS ITS MOST WATCHED YEAR EVER

Network Posts Double Digit Growth Across all Demos

January 10, 2014 (Santa Monica, CA) GSN announced that it has set a record with 2013 being the most watched year in the network's history -- with double-digit audience growth across all key demos and total viewers.

The network delivered its largest total day audience to date among target demos including total viewers, W18-49 and W25-54. A majority of that growth came from its primetime lineup, which hit 10-year highs among total viewers, W18-49 and W25-54 according to recently released Nielsen data.

GSN also experienced double digit growth in viewership from 2012 making it one of the top 10 fastest growing ad-supported entertainment cable networks this year among W18-49 and W25-54. In total day, W18-49 rose +21%, W25-54 +12% and total viewers gained +13%. In primetime, W18-49 grew +27%, W25-54 +19% and total viewers +11%.

The network is poised to continue this growth trend in 2014 with Wednesday's premiere of its newest original series. **MIND OF A MAN** hosted by DeRay Davis premiered in a two-hour block and increased the time period in key female demos W18-49 grew by +24% and W25-54 was up +38%.

The ratings growth was driven, in part, by the continued success of GSN's original programming:

THE AMERICAN BIBLE CHALLENGE garnered the network's highest delivery in its 18-year history with 1.7 million total viewers for its August 23, 2012 series premiere. Factoring in the encore airing, the premiere episode was watched by over 2 million viewers. The second season premiered on March 21, 2013 and built upon the success of season one with year-to-year increases of +34% W18-49 and +17% W25-54. **THE AMERICAN BIBLE CHALLENGE** has now been seen by over 21 million viewers.

MINUTE TO WIN IT Apolo Anton Ohno edition achieved double-digit gains among total viewers (+13%), P18-49 (+25%) and P25-54 (+11%) versus its year-to-date time period average and has been seen by over 19 million total viewers (P2+).
Since its premiere on August 6th, 2013, **THE CHASE** has delivered double-digit gains among total viewers (+45%), P18-49 (+33%), P25-54 (+71%), W25-54 (+55%) and M25-54 (+97%) versus GSN's year-to-date Tuesday Prime average. It has been seen by 13.5 million total viewers (P2+).

New programs premiering on GSN in 2014 include Season 3 of **THE AMERICAN BIBLE CHALLENGE** hosted by Jeff Foxworthy, **IT TAKES A CHURCH** hosted by 2014 Grammy® Nominee and multi Dove Award winner Natalie Grant as host and the new body painting competition series **SKIN WARS**.

About GSN GSN is a multimedia entertainment company that offers original and classic game programming and competitive entertainment via its 80-million subscriber television network and online game sites. GSN's cross-platform content gives game lovers the opportunity to win cash and prizes, whether through GSN's popular TV game shows or through GSN Digital's free casual games, mobile and social games, and cash competitions. GSN is distributed throughout the U.S., Caribbean and Canada by all major cable operators, satellite providers and telcos. GSN and its subsidiary, WorldWinner.com, Inc., are owned by Sony Pictures Entertainment and DIRECTV. For further information, please visit GSNTV.com.

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EXHIBIT 35

Latest Releases

November 18, 2014

GSN BUILDS ON 2014 SUCCESS WITH NEW DEVELOPMENT FOR 2015

GSN BUILDS ON 2014 SUCCESS WITH NEW DEVELOPMENT FOR 2015

Horror Film Producer Jason Blum of Blumhouse Preps Fright-Inducing Suspenseful Game Show Network Delves Into Emerging Subculture with New Show "Steampunk'd"

Actress Danica McKellar Boards "App Wars" Pilot as Host, Along with Tech Titans Nolan Bushnell, Alyson Shontell and Prerna Gupta as Judges

November 18, 2014 (SANTA MONICA, Calif.) – Coming off a record-breaking 2014, GSN continues to delve into new genres of game programming with shows that will join the network's traditional "shiny floor" series, expanding its competitive entertainment roster for 2015. The announcement was made today by David Schiff, senior vice president, programming and development, GSN.

GSN recently announced a 65-episode second season of original hit series **IDIOTEST**, hosted by comedian Ben Gleib, marking the third consecutive freshman series pick-up for the network this year (following matchmaking series **IT TAKES A CHURCH**, hosted by 2014 Grammy® nominee and multi-Dove Award-winner Natalie Grant, and body painting competition show **SKIN WARS**, hosted by Rebecca Romijn).

As part of GSN's aggressive original programming initiative that continues to broaden the definition of television game shows, the network is partnering with some of the industry's most creative scripted and unscripted producers, including Emmy® winner Jason Blum ("Paranormal Activity," "The Normal Heart"), CEO, Blumhouse Productions, as he forays into game show television.
Said Schiff, "GSN has taken some big swings in development over the past year, pushing our brand into exciting new areas while still maintaining our leadership position in the traditional game show genre. That push is paying off, both in the diversity of projects that we're working on, and in the increased amount of break-out original programming like 'Skin Wars' and 'Idiotest.'"

GSN achieved strong double-digit growth for the network with its originals premiering in 2014, increasing on average +58% among W18-49 and +41% among W25-54 versus their respective YTD time period averages. This year's new series ("Skin Wars," "Idiotest," "It Takes A Church") have been watched by over 22 million unique viewers to date and led GSN to its most watched summer ever in primetime.

The pilot **APP WARS**, (previously announced) has tapped actress Danica McKellar ("The Wonder Years," "Dancing with the Stars") as its host, and tech experts Nolan Bushnell (founder of **Atari, Inc.** and **Chuck E. Cheese's Pizza-Time Theaters**), Alyson Shontell (Business Insider) and Prerna Gupta (co-founder of Khu.sh) as judges. Each self-contained episode features a parade of contestants who present their original app ideas to a panel of three technology industry advisors who will each pick a favorite idea. Creators of the top three ideas are paired with mentors (one of the advisors) who help develop the look, feel and functionality of the apps. In the end, the three apps will be presented to the judges who will determine which app has the potential to become the next "Angry Birds" or "Snapchat!"**APP WARS** is executive produced by Cheri Brownlee and Barry Hennessey through Cheri Sundae Productions.

GSN's key projects in development include:

HELLEVATOR

The horror-themed game show **HELLEVATOR** features contestants entering a dark, mysterious warehouse – via an ominous-looking elevator – where they will compete in a series of scary, suspenseful and emotionally exhausting challenges. Only the survivors will make it out as winners. **HELLEVATOR** is produced by Matador and Blumhouse Productions in association with Lionsgate Television. Matador's Jay Peterson and Todd Lubin executive produce. Blumhouse Productions' Jason Blum ("Paranormal Activity," "The Purge," "Insidious" and "Sinister" franchises), who won a 2014 Emmy® Award for "The Normal Heart," also executive produces.

STEAMPUNK'D

STEAMPUNK'D is a wildly creative competition series featuring talented artists, designers and inventors who create "Steampunk," a popular genre of science fiction and fantasy that fuses modern technology and Victorian Age aesthetics to turn everyday objects into works of art.

Contestants will be challenged to marry objects from the past and present in order to create futuristic designs and inventions. Dramatic reveals each week will build to a grand finale of a fully Steampunk'd world, so get ready for "before" and "after" like none you've ever seen before! **STEAMPUNK'D** is executive produced by Kimberly Belcher Ehrhard, John Ehrhard ("Hogan Knows Best," "Miami Social") and Lauren Stevens of Pink Sneakers Productions.

HOW-TO GAMES ***(working title)***

This fast-moving game show utilizes hugely popular internet how-to videos to see how quickly contestants can pick up and repeat a wide range of tasks, from simple to complex: tasks like tying a bowtie, creating a balloon animal, cutting your own hair or picking a lock.**HOW-TO GAMES** is executive produced by Dwight Smith and Michael Agbabian of Mission Control Media, Inc. ("Face Off," "Hollywood Game Night").

BINGO BASH

In a first for GSN, the network is bringing its internationally popular digital app, Bingo Bash (over 900,000 players daily), to the small screen. **BINGO BASH** welcomes one lucky player into the studio each week and pits him or her against online opponents for the chance to win life-changing money.

WINSANITY

In **WINSANITY**,onecontestant attempts to organize seven compelling and surprising facts in numerical order, from lowest to highest. Each successful ranking wins prizes for the team...*and* the audience, who also has a stake in the game. When the contestant wins a prize, the entire audience is awarded that same prize! However, if the contestant strikes out, then the audience members lose everything in this ultimate game of numbers. Fromexecutive producers Barry Poznick ("Are You Smarter Than a Fifth Grader?") of Barracuda Television Productions, and Chris Grant and Corie Henson of Electus.

FACE 2 FACE

FACE 2 FACE is a studio-based dating series for the 21st century, using an app to drive a tailored search for each contestant's (dater) ideal physical "type." During the show, the dater can see and hear the singles who have been chosen as potential matches, and is privy to everything about their lives via social media. However, the singles are not afforded the opportunity to see the dater. After the dater has narrowed the field to just one single, the tables are turned, with the winning single afforded the opportunity to see who's been judging them. The single must now decide whether to stay and meet the dater, or bail before ultimately meeting face to face. **FACE 2 FACE** is based on a Keshet International format, produced by Keshet DCP.

About GSNGSN is the leader in game show entertainment across multimedia. GSN presents original and classic game programming and competitive entertainment and games via its 80-million subscriber television network, a dedicated GSN.TV website and via digital game sites. GSN's cross-platform content gives game lovers the opportunity to win cash and prizes, through GSN's popular TV game shows and GSN Games free casual games, mobile and social games, and skill-game tournaments. GSN's television network is distributed throughout the U.S., Caribbean and Canada by all major cable operators, satellite providers and telcos. GSN is owned by Sony Pictures Entertainment and DIRECTV. For further information, please visit **GSNTV.com**.

For additional information and photos, please go to **http://corp.gsn.com**

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Latest Releases

January 14, 2015

GSN BUCKS CABLE TREND, SHOWING GROWTH YEAR OVER YEAR

GSN BUCKS CABLE TREND, SHOWING GROWTH YEAR OVER YEAR

2014 Most Watched Year in Network History with Growth Across All Demos

Primetime Ratings Hit Ten-Year Highs As Cable Network Will Return Three New Series, "Skin Wars,""Idiotest" and "It Takes A Church"

January 14, 2015 (Santa Monica, CA) – GSN, the leader in game shows and competitive entertainment, announced today that 2014 was the network's most-watched year ever in cable primetime among total viewers, Adults 18+, Women 18+, People 25-54 and Women 25-54**[1]**. This is also the third consecutive year of growth for the 20-year old cable network, bucking the current downward trend in viewership being felt by other well-established cable channels.

Additional end-of-year ratings highlights for the network include: 2014 tying with 2013 as the most watched year ever in total day among total viewers; growing their P25-54 and W25-54 for a third consecutive year in cable primetime, which is a first for the network; and ending 2014 on a strong note by delivering its most watched fourth quarter ever in total day among total viewers and in cable primetime among W18+**[2]**. GSN was also one of the top ten fastest growing ad supported cable entertainment networks in 4Q in cable primetime among P18-49 and P25-54.**[3]**

The network has also found success with three new series that launched in 2014 and will return in 2015: "Skin Wars," hosted by actress Rebecca Romijn, "Idiotest," hosted by comedian Ben Gleib and "It Takes A Church," featuring award-winning vocalist Natalie Grant. The Emmy®-nominated quiz show "The Chase," hosted by Brooke Burns and featuring trivia master Mark "The Beast" Labbett, also returns for a fourth season.

"GSN's commitment to both increasing original programming and expanding the genre of television game has resulted in three years of consecutive growth for our target demo," said Amy Introcaso-Davis, GSN's Executive Vice President of Programming and Development. "We are excited that our audience has embraced these creative, fun, contemporary shows and can't wait for them to see the whole 2015 line-up."

About GSN
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[1] *Source: Nielsen, 12/30/13-12/28/14 vs. prior years since 12/27/1999, Cable Primetime 7P-12A M-SU, AA(000) L+3*
[2] *Source: Nielsen, 09/29/14-12/28/14 vs. prior 4Qs since 9/27/1999, Total Day 6A-6A M-SU, Cable Primetime 7P-12A M-SU, AA(000) L+3*
[3] *Source: Nielsen, 09/29/14-12/28/14 GSN vs. Nielsen defined ad sup cable networks, excludes sports and news, Cable Primetime 7P-12A M-SU, AA(000) L+3*

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EXHIBIT 37

REDACTED VERSION

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of NFL ENTERPRISES LLC, Complainant, vs. COMCAST CABLE COMMUNICATIONS, LLC, A Division of COMCAST CORPORATION Defendant.	MB Docket No. 08-214 File No. CSR-7876-P DIRECT TESTIMONY OF DR. HAL J. SINGER

penetration rate for Versus, and although football is far more of a "major sport" than hockey, Comcast itself *never* carried NFL Network at a 40 percent or greater penetration rate.[67]

F. The Resulting Harm to Enterprises

70. As the largest MVPD in the nation, Comcast's foreclosure of NFL Network from Comcast's broadly penetrated tiers (including both Expanded Basic and D2) is presumptively anticompetitive even under a traditional share-based approach to analyzing foreclosure.[68] A potentially relevant geographic market for analyzing Comcast's conduct is the nation, as NFL Network may sell its programming to MVPDs across the country. Comcast controlled 22 percent of all nationwide MVPD subscribers in June 2006.[69] Comcast controls a significantly greater share of national MVPD subscribers than does the next largest MVPD, DirecTV.[70] To the extent that the relevant geographic markets consist of only those areas with an interest in NFL games—in particular, the DMAs associated with the 32 local NFL franchises—the share of the market that Comcast forecloses through its carriage decision may be even higher than 22 percent. To use one example of a DMA with a professional football franchise (the Philadelphia Eagles), as of 2005, Comcast controlled almost 60 percent of all television households (and a larger share of MVPD households) in the Philadelphia DMA.[71] In this section, I identify specific harm to NFL Network caused by Comcast's exclusionary conduct.

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67. *See NFL Subscriber Report by MSO* (Top 10 MSOs), NFL NETWORK (2009).

68. *See* PHILLIP AREEDA, IX ANTITRUST LAW 375, 377, 387 (Aspen 1991) (indicating that 20 percent foreclosure is presumptively anticompetitive); *See also* HERBERT HOVENKAMP, XI ANTITRUST LAW 152, 160 (indicating that 20 percent foreclosure and an HHI of 1800 is presumptively anticompetitive).

69. In the Matter of Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming, Thirteenth Annual Report, MB Dkt. No. 06-189, released Jan. 16, 2009, at 146 Table B-3.

70. *Id.* (showing DirecTV with a 16 percent share of national MVPD subscribers).

71. *See, e.g.,* In the Matter of Applications for Consent to the Assignment and/or Transfer of Control of Licenses, MB Dkt. No. 05-192, Memorandum Opinion and Order, released July 21, 2006 [hereinafter *Adelphia Order*], at *54 fn. 400 ("Specifically, Comcast asserts that there would be no significant change in concentration within the footprints of CSN West and CSN Chicago (remaining at 23% and 20% of TV households, respectively), a three percentage point increase in Philadelphia (53% to 56% of TV households), a four percentage point increase in

EXHIBIT 38

Highly Confidential Exhibit Withheld

EXHIBIT 39

Before the

Federal Communications Commission
Washington, DC 20554

In the Matter of	)	
	)	
The Tennis Channel, Inc. v. Comcast Cable Communications, LLC	)	Docket No. CSR-____-P
	)	
	)	
	)	

To: Chief, Media Bureau

DECLARATION OF HAL J. SINGER

distributed.[47] In prior proceedings, the Commission has received testimony from numerous national networks explaining that networks generally are considered "viable for ratings and advertising purposes" once they have achieved a level of distribution of near 40 million households.[48] A network's distribution also affects its ability to obtain programming.[49]

A. Denial of Carriage Harms Tennis Channel's Ability to Compete Against Other Networks

31. As long as Tennis Channel's reach remains substantially below 40 million national subscribers, Tennis Channel is restrained in its ability to compete effectively for advertisers and programmers, many of which view national distribution (defined by thresholds in the range of 40 million subscribers) as a prerequisite for making a network a meaningful contender. Because of Comcast's discriminatory carriage of Tennis Channel, the network also is restrained in its ability to compete effectively for viewers, as sports programming is an "experience good"[50] that can best be learned about while surfing the channels. Indeed, most Comcast subscribers will not be aware of the existence of Tennis Channel or the nature of the

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47. See Declaration of Gary Herman.

48. Federal Communications Commission, Report On the Packaging and Sale of Video Programming Services, Nov. 14, 2004, at 44-45 (citing testimony from Hallmark stating that few national advertisers will buy advertising from a network with 20 million subscribers and the cost per thousands at that level generally is not competitive;

; citing testimony from a coalition of programmers stating that a national niche network needs to achieve a threshold level of at least 30 million to 40 million subscribers in order to be considered as a possible advertising vehicle for national advertising; citing testimony from A&E stating that to attract sufficient advertising revenue to afford to pay for and provide a meaningful quantity of original programming, a network must reach approximately sixty million subscribers; citing testimony from Viacom stating that a network usually needs a subscriber base of approximately 50 million, which represents about half of the country's households, to serve as an effective advertising vehicle).

49. *Id.*

50. The idea of "experience goods" dates back to a 1970 paper showing that it was more difficult to determine utility associated with quality than with price and that certain goods must be used before a determination on utility can be determined. *See* Philip Nelson, *Information and Consumer Behavior*, 78 J. POL. ECON. 311 (1970). Since then, experience goods have been formalized to be goods for which consumers do not know their preferences before consumption. This concept has been applied to a variety of industries, most notably retail goods including electronics, appliances, clothing, food, and toys. *See* Yeon-Koo Che, *Customer Return Policies for Experience Goods*, 44 J. IND. ECON. 17, 18 (1996); Douglas Gale & Robert Rosenthal, *Price and Quality Cycles for Experience Goods*, 25 RAND J. ECON. 590 (1994); Carl Shapiro, *Optimal Pricing of Experience Goods*, 14 BELL J. ECON., 497 (1983).

programming available on Tennis Channel; it is impossible to gain that experience if a network is available only on a sports tier, to which a consumer must affirmatively subscribe. In contrast, Comcast subscribers can gain experience with the Golf Channel and Versus casually, as those channels are available to them without the need to subscribe to a sports tier. Thus, Comcast's subscribers will be more likely in the future to watch the Golf Channel and Versus, with which they have experience, than to watch Tennis Channel, with which they do not have experience and to which they do not have ready access. This issue is becoming more salient because, as described below, Comcast has repositioned many of the most attractive sports tier networks after it or a cable operator with which it frequently purchases programming acquired equity in the network, making the sports tier even less attractive to subscribers.

32. Moreover, the effects of Comcast's discrimination go beyond the number of subscribers that Tennis Channel, Versus, and the Golf Channel have on Comcast's systems. Other vertically integrated cable operators carry Versus and the Golf Channel on highly penetrated tiers (most likely pursuant to a formal or informal reciprocal carriage arrangement[51]). Furthermore, smaller (even non-integrated) cable operators tend to follow Comcast's carriage lead. Consequently, Comcast's broad carriage of Versus and the Golf Channel combined with its narrow carriage of Tennis Channel contributes to an even broader gap–

—after all distributors are taken into account. This gap exacerbates the already significant gap in subscribers on Comcast systems alone, and it significantly impairs Tennis Channel's ability to compete for advertisers, viewers, and programming content. As a

51. Vertically integrated cable operators have been recognized to enter into reciprocal carriage agreements. *See* Jun-Seok Kang, *Reciprocal Carriage of Vertically Integrated Cable Networks*, Indiana University Working Paper (Aug. 30, 2005) at *i* ("The research supports the reciprocal carriage hypothesis by finding that: (1) A vertically integrated MSO is more likely than a non-vertically integrated MSO to carry the start-up basic cable networks of other MSOs; and, (2) a vertically integrated MSO is no more likely than a non-vertically integrated MSO to carry independent start-up basic cable networks.").